



**STATE OF TENNESSEE
COMMISSION ON AGING AND DISABILITY**

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Kathy Zamata
Interim Executive Director

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December 27, 2011

Ms. Wendy Askins, Executive Director
Upper Cumberland Development District
1225 South Willow Avenue
Cookeville, Tennessee 38506-4194

RE: Unannounced Monitoring Visit – December 16, 2011

Dear Ms. Askins:

Enclosed with this letter is a copy of the Final Report of the December 16, 2011, monitoring visit of the Area Agency on Aging and Disability (AAAD) at the Upper Cumberland Development District (UCDD). The unannounced review was conducted by the monitoring team from the Tennessee Commission on Aging and Disability (TCAD). A desk review was also conducted by the TCAD Supervisor of Elder Rights. The Area Agency staff was helpful and cooperative during the site visit.

According to the monitoring team's report, there are findings that need to be addressed. Please submit a written Plan of Correction within 30 calendar days of the receipt of this report. Your response will be attached to the final report for distribution to various agencies that require a copy of the report (the Commission's Audit Committee, the Comptroller of the Treasury, etc.)

When responding to each of the findings please choose from one of the following and give an explanation of your response. You will also note that the report includes staff recommendations that may assist you with your Plan of Correction.

Concur: The Area Agency is in agreement with the remarks and findings cited in the monitoring report as being accurate.

Concur in Part: The Area Agency is in partial agreement with the overall conclusions cited in the monitoring report, however seeks to have certain information amended due to inaccuracies such as dates, names, etc. This response is appropriate whenever the Agency has evidence to refute some conclusions drawn in the monitoring report. Any perceived inaccuracies must be substantiated with supporting documentation provided to TCAD for review.

Ms. Wendy Askins, Executive Director
Upper Cumberland Development District
December 27, 2011
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Do Not Concur: The Area Agency rejects all the conclusions and findings in the monitoring report as groundless and without merit. The Agency maintains that all areas subject to review adhere to the requirements within the Scope of Services cited in the contract; TCAD program policy; the Federal/State statutes and laws. Such situations must be addressed by the Program Director.

All correspondence between TCAD and the AAAD concerning the resolution of the findings will become part of the final monitoring record. These records are available at the TCAD office when the State Comptroller's office reviews records to verify that the monitoring reviews were conducted and plans of correction were submitted timely.

Please feel free to contact Kennettra Golden at kennettra.golden@tn.gov, or by phone at (615) 741-2056, Ext. 114, if you have any questions.

Thank you for your cooperation in this process and for advocating for older Tennesseans and adults with disabilities.

Sincerely,



Kathy Zamata
Interim Executive Director

KZ/KG/ckw

C: Patty Ray, Program Director, UCAAAD
Janet Lamb, Elder Rights Supervisor, TCAD
Kennettra Golden, Monitoring and Review Supervisor, TCAD

MONITOR REPORT NARRATIVE

| | |
|-----------------------|---|
| Area Agency: | Upper Cumberland |
| Date of Visit: | December 16, 2011 |
| TCAD Staff: | Kennettra Golden, Monitoring Supervisor Darla Bennings, Aging Program Coordinator Janet Lamb, Elder Rights Supervisor |
| Agency Staff: | Patty Ray, AAAD Director Holly Williams, AAAD Assistant Director Lewis Betterton, AAAD Financial Specialist |

Rationale for the Review:

An unannounced visit to the Upper Cumberland Area Agency on Aging and Disability (UCAAAD) was made to review documentation in the records of individuals purported to be enrolled in the OPTIONS for Community Living program. Anomalies in the frequency of services utilized over a short period of time, as well as the higher than average costs were noted in the SAMS (Social Assistance Management System) software database. There is also a questionable business arrangement between the Assisted Living Facility (Living the Dream) and a provider of in-home Options services (LA Management, Inc.) that prompted the need for the on-site review and desk review.

Tools:

This review was based on Chapters 1, 5, and 16 of TCAD's Program and Policy Manual; examination of consumer files for SAMS ILA (NSI) Screenings and Assessment, Service Plans, and Service Activity notes. The contract between Upper Cumberland Development District and LA Management Company d.b.a. Angels in Waiting were also referenced during the assessment.

Observations:

Upon the arrival of the TCAD monitors, it was discovered that Patty Ray, the Area Agency Director was out of the office, but expected to return soon. Betty Scruggs, the AAAD monitor for the OPTIONS program was out of the office in McMinnville the day of the review and could not be interviewed about the operations of the OPTIONS program or the details of the current areas of concern. Holly Williams, the Assistant Director of the Area Agency, was present and able to retrieve the records requested for the review.

Records Review:

In order to gain more information concerning the status of the consumers and the extent of services received through the OPTIONS program, the monitors examined four (4) files of consumers who were identified as either residing at the Living the Dream assisted living facility or in a private residence, as well as, receiving personal care and/or homemaker services from L.A. Management Company. The results of the monitoring are summarized as follows:

Consumer 1346722048 Age: <60

Caregivers: Non-Relative

Monthly Income: \$788.00

Residence: Assisted Living Facility (Living the Dream)

Service Plan – Dated 2/15/2011-2/15/2012 Jim McCaleb, Service Coordinator, documented in initial assessment dated 2/15/2011 that consumer wanted homemaker services only. Consumer was authorized to receive 2 hrs @ 2x wk @ 18 units @ \$20.44. However, the service delivery log showed that for the months of March and April, 2011, the consumer received 20 units instead of the 18 units authorized.

2nd Service Plan – Dated 4/29/2011 – 12/29/2011 Consumer was reassessed on 4/29/2011 and 10/19/2011, Service Coordinator documented that consumer required “move” help with personal care services (PCS) as well as homemaker services. Consumer was authorized to receive 2 hrs @ 2x wk @ 18 units @ \$20.52. In addition, during the months of May thru August, 2011, the service delivery log reflects that the consumer received the 18 units for both services as authorized.

*On 4/29/2011, Wendy Askins signed “participant signature page” which informs the consumer of the grievance procedure through the UCDD/AAAD.

*Progress notes reflected that the consumer’s case was **closed on 12/2/2011 due to being transferred to another unspecified program.**

Consumer 12202233976 Age: 60+ ** (DOB in agency file is different by almost 7 years from the assessment in SAMS database. The dates have no similarity.)

Monthly Income: \$1179.00

1/11/2011 – Consumer discharged from Highland Ridge

Caregiver: Wendy Askins (listed on service plan)

Service Coordinator: Jim McCaleb

Service plan 1/15/2011 – 4/15/2011 Annual service limit of \$7,000 was exceeded within 3 months. Homemaker Services (HMS) authorized for 3 hrs. @ 1 x day @ 64.5 hrs. per mo. = \$3,905.14 yr.

Personal Care Service (PCS) authorized for 2.5 hrs. @ 1 x day @ 54 hrs. per mo. = \$3,324.34

***4/15/2011** – Service plan expired, reason: client not eligible for additional services, file closed per service coordinator.

***5/17/2011** – Memo: **consumer transferred to another program as of 4/30/2011**, PCS and HMK services are discontinued thru Options. **However, services were billed thru July, 2011.**

Consumer 1373598277 Age: 60+

Residence: Unable to determine from consumer’s record

Monthly Income: \$1133.00, VA & Social Security

Caregiver: Michelle Price (agency file) *contact person for LA Management Company*

5/18/2011 – PAE CHOICES visit with daughter & consumer

Department of Human Services approved for CHOICES

TNCare provider inquiry 5/26/2011

No evidence of Options assessment for eligibility found in file.

No Service Plan present in file, however Service Log indicates 40 units of HMK (\$817.60) and 27 units of PCS (\$554.04) began on 6/1/2011 for a for period of one month totaling of \$1371.40.

Disposition of consumer not documented. TCAD Monitors were told the consumer went to CHOICES.

Consumer 1376113527 Age: 60+

Residence: Lives alone in an apartment.

Monthly Income: \$1,576.00

Caregiver: Relative

7/23/2009-10 - Service Plan for HDM 5x per week. Discontinued 7/12/2010 no longer wanted by consumer.

4/18/2011 - Caregiver wants Nursing Home for consumer.

4/27/2011 – Choices PAE is completed. Caregiver changes from wanting Nursing Home to wanting Assisted Living for consumer.

6/1/2011 – Initial service plan has HMK @ 3 units 1x per day for 64.5 units for per month (\$1318.38) in addition to PCS @2.5 units 1x per day for 54 units per month (\$1328.60). The services were provided at this level through 8/2011, according to the service log. *Wendy Askins signed the service plan as the AAAD authorizing representative.

12/2/2011 – Consumer discharged to a Nursing Home.

| Consumer ID | Conclusions |
|-------------|---|
| 1346722048 | <p>The consumer received services thru Options that were approved on service plan.</p> <p>The Assessment was not fully completed. The Health and Mental Health/Behavior/Cognition section were not done. Symptoms and Conditions Checklist identified the presence of conditions and symptoms for which no key information was recorded. No medication evidence of a medication list present in the record although taking a number medications was cited.</p> |
| 1220233976 | <p>Consumer received services as approved and authorized on service plan. However, the service plan expired on 4/30/2011, yet SAMS service delivery log reflects that the consumer continued to receive homemaker and personal care services thru July, 2011.</p> <p>DOB discrepancy of 7 years observed between consumer file and SAMS database.</p> |
| 1373598277 | <p>Consumer's file reflected application for CHOICES program. SAMS service delivery log reflect that the consumer received homemaker and personal care services thru Options in June, 2011, however, there was no evidence of Options assessment for services in file. Information and Assistance call made for services on 5-12-2011 after being referred by W. Askins. Income appears to be well above the poverty guidelines. No evidence a Consumer Cost Share was completed. Consumer already had DHS approval for CHOICES program.</p> <p>The lack of an Assessment for Options Program indicates: criteria for program eligibility was not verified based on priority on the Options waitlist.</p> |

| | |
|------------|--|
| 1376113527 | <p>Unusually high amount of services used each month to support consumer which rapidly approached using up \$7,000 maximum annual allowable funds.</p> <p>Progress Notes in file reference Wendy Askins contacts about this consumer to AAAD staff</p> |
|------------|--|

Provider Information & Contract Review:

LA Management Company is an in-home provider of homemaker and personal care services. A check of the Tennessee Secretary of State Business Information Search indicates this company made an initial filing on June 12, 2010 as a Domestic, for-profit corporation. This business serves all fourteen (14) counties which compose the Upper Cumberland Development District. The current status of the company is inactive – terminated. There is no agent, however the website indicates the agent resigned or is invalid. On November 3, 2011, the filing status changed from “active” to “dissolved”. The president of LA Management Company was listed as Larry Webb. Mr. Webb is also the current Deputy Director of the Upper Cumberland Development District. The principal mailing address for this business is 1125 Deer Creek Drive, Cookeville, TN.

LA Management Company was issued an initial Personal Support Services Agency (PSSA) license which became effective September 1, 2010, and expired on August 31, 2011. The business also made application to be a TennCare provider, and received a response from the Bureau of TennCare Provider Services/Enrollment Unit in November of 2010 that the application had been processed.

LA Management Company d.b.a. Angels in Waiting, entered into a contract to provide Homemaker (HMK) and Personal Care Services (PCS) to the Upper Cumberland Development District’s Area Agency on Aging and Disability (UCDD AAAD). The contract term went into effect starting July 1, 2011, and ended June 30, 2012. The provisions of the scope of services indicate the contractor could be compensated for authorized units of services through either the OPTIONS Program (state-funded HCBS), or the Title III and Family Caregiver Program (federally funded through the Administration on Aging), these programs are managed by the AAAD on a regional level. The contract was signed on July 27, 2011, by the LA Management Company President, Larry Webb and the UCDD Executive Director Wendy Askins.

The UCAAAD did not make a monitoring visit to the provider after the contract went into effect. The only provider review of standards was done in January of 2011, six (6) months before the contract was signed. Only two (2) people were listed as employees of LA Management Company in January, Larry Webb and Wendy Askins. The personnel documentation review did not identify the position of the personnel, job descriptions, check for training, license/certification verifications, or references. Were there inquiries about additional staff employed to deliver HMK and/or PCS? What staff was added?

The LA Management Company has provided services to consumers residing in an assisted living facility (ALF) called, "Living the Dream for Seniors, Inc.". According to the Secretary of State Business Information Search, this company is an active Domestic, non-profit business with the registered agent listed as Larry Webb with the main address of 1125 Deer Creek Drive, in Cookeville. Wendy Askins also has strong ties to the Living the Dream Independent Living facility. The main address of both companies is at this same address. A check to substantiate there is a license for this assisted living facility has been unsuccessful. "Living the Dream" appears to be an unlicensed facility. Both Larry Webb and Wendy Askins are listed as key associates on the business documents for each of these corporations. Both Larry Webb and Wendy Askins hold the highest positions in the UCDD organization. These business connections pose clear conflicts of interest.

The Upper Cumberland Area Agency on Aging and Disability has not demonstrated diligence in managing and monitoring program services to assure the integrity of program services, compliance of provider standards, and the accuracy and management of consumer records. The enforcement of Federal and State laws has been compromised, in addition to the violations of policies and regulations which need a plan of correction.

On-site Review Findings:

1. AAAD did not act effectively to enforce Federal and State laws, policies and regulations.

5-9 (1) AAAD must assume full contractual responsibility for assuring that all funds awarded to it under the OAA and under State of Tennessee or other federal appropriations are utilized in accordance with all federal and state laws, rules, policies and procedures in or referenced by the state agency policy manual.

2. UCDD & AAAD did not adhere to a Code of Conduct.

1-5-.02 (4) No employee, officer, or agent of a non-governmental recipient award will participate in the selection of award, or administration of a contract subject to this sub-section where to his knowledge, any of the following had a financial interest in that contract:

- a. The employee, officer or agent;
- b. Any member of his immediate family
- c. His Partner
- d. An organization in which any of the above is an officer, director or employee
- e. A person or organization with which any of the above individuals is negotiating or has any arrangement concerning prospective employment.

1-5-.06 Contractor Responsibilities

- (1) Contracts will be made by the recipient of award only with responsible contractors who possess the potential to perform successfully under the terms and conditions of the proposed procurement. Considerations must be given to such matters as contractor integrity, record of past performances, financial and technical resources and accessibility to other resources.
- (2) The procurement of files of the recipient of award for negotiated purchases in amounts of excess of \$10,000 must include the following pertinent information:

- a. Justification for the method of procurement
- b. Basis for contractor selection or rejections
- c. Basis for the cost or price negotiated
- d. Basis for selection of contract type
- e. A system for contract administration will be maintained by the recipient of award to assure contractor compliance with terms, conditions and specifications of the contract or order and to assure adequate and timely follow-up of all purchases

3. The AAAD did not comply with OPTIONS program policy requirements.

16-2 (4) Assessment (OPTION) means a component of service coordination (case management) that evaluates individuals by administering a structured assessment instrument(s), approved by the state agency, to gather information about individuals to determine need and/or eligibility for services. Information collected must include health and nutritional status, financial status, activities of daily living, instrumental activities of daily living, physical environment and social support system.

16-4 (4) ...Only consumers who are assessed with a pre-defined level of limitations of Activities of Daily living (ADL) will be eligible for these services. Eligibility will be determined through the use of the Social Assistance Management System Independent Living Assessment (Nutrition Screening Initiative) 2010 [SAMS ILA (NSI) 2010].

- 16-5** Priority - In providing services, priority shall be given to:
- (1) Adult protective services clients, if there is an open case.
 - (2) Low income individuals.

Public Guardianship Desk Review

Janet Lamb performed a desk review on Guardianship client 424327417 who is classified as an institutionalized Durable Power of Attorney (DPOA) on 12/21/2011. The review came about due to a complaint regarding this client.

The definition of DPOA is a power of attorney by which a principal designates another person or agency as his attorney-in-fact in writing with the intent of the principal that the authority conferred shall be exercisable notwithstanding the principal's subsequent disability or incapacity (*10-5 TCAD Program and Policy Manual*).

A DPOA with the Public Guardian program creates a fiduciary relationship (*T.C.A. § 34-6-107*) with the Upper Cumberland Area Agency on Aging and Disability (UCAAAD), the grantee agency. Because of this relationship, certain statutory obligations and duties imposed on all fiduciaries, who by virtue of their position, are in a trust relationship to the person for whom they serve (*TCAD Program and Policy Manual 10-2*).

Client 424327401 entered the Public Guardian program on October 21, 2008, and, according to case notes, died on June 3, 2011. Since entry into the Public Guardianship program, this client has been listed as an institutionalized DPOA, meaning he resided in a licensed facility. However, his address is listed as 1125 Deer Creek Dr., Cookeville, TN

38501, an unlicensed facility operated by the Upper Cumberland Development District (UCDD). This facility is known as “Living the Dream” Retirement Home, which is operated by the Upper Cumberland Development District (UCDD) and whose principals are UCDD Director Wendy Askins and Deputy Director Larry Webb. This facility opened in 2011 and employed a staff of two (2).

UCDD is the Tennessee Commission on Aging and Disability’s grantee agency for the Public Guardian program. It administers state funding for the Guardianship program. It is the parent organization UCAAAD that serves as the provider for Guardianship services.

Each District Public Guardian program shall ensure that clients needing to be placed in long-term or residential care facilities are licensed or approved by the appropriate agencies (*TCAD Program and Policy Manual 10(2)(j)*). This client was placed in “Living the Dream” an unlicensed facility. This was his address at the time of his death, based on SAMS database information.

A District Public Guardian shall avoid a conflict of interest. A District Public Guardian shall not sell or transfer real or personal property or any interest therein to himself, a relative, spouse, agent or attorney, or any corporation or trust in which the conservator has a substantial beneficial interest “unless the transaction is approved by the court...” (*TCAD Program and Policy Manual 10(2)(b)*) A DPOA client has no court oversight.

In this instance, the client was placed and paid rent, in the unlicensed “Living the Dream” facility, which is owned and operated by the UCDD, the grantee agency for the UCAAAD Public Guardianship program. As such, the Public Guardian has a beneficial interest in UCDD, as its parent agency, creating a conflict of interest.

Finally, death always terminates a DPOA and all powers under such document cease (*10(7)(b)*). The client in this case, died on June 3, 2011. Guardian services were billed for payment on September of 2011, some three (3) months after the client’s death.

Findings in the Public Guardianship Program

1. The District Public Guardian program violated policy by placing the client in an unlicensed facility.
2. The District Public Guardian program violated policy by placing the client in a facility, owned and operated by UCDD, the Public Guardian program’s grantee agency, under which the program receives substantial benefit by funding. The financial relationship between the two (2) programs creates a conflict of interest, in violation of policy.

3. DPOA ends on the death of the client. The Public Guardian program violated policy by continuing guardian services, which resulted in billing three (3) months after the client's death.

Recommendations for Plan of Correction

Consider the following recommendations as you prepare the Plan of Correction:

1. Establish a consumer chart/record standardized format including, but not limited to:
 - a. There is a centralized filing system
 - b. There is an established chart/record order (how the individuals files are kept)
 - c. Individual files have the newest information placed on the top
 - d. There is a standardized system for writing progress notes
 - e. Assessment forms are completed in each individual's file
 - f. Supervisor regularly reviews and approves assessments and progress notes for completion
 - g. Supervisor regularly reviews that documentation in the SAMS database is complete
2. Revise procedures for the monitoring of providers including, but not limited to:
 - a. Forms for initial credentialing of providers is completed
 - b. Verification of provider processes and compliance with contract monitored during first three (3) months of operation as a new provider
 - c. If a provider terminates a contract, then procedures are in place for ensuring that:
 - 1) services to the consumers are provided by another suitable provider, and
 - 2) the provider records are retained on those consumers
3. Establish and/or review Conflict of Interest policy and procedure for the agency
4. Conduct in-service training including, but not limited to:
 - a. Standards for consumer file progress notes
 - b. Documentation of records in SAMS database
 - c. Determining if an employee has a "Conflict of Interest" and procedures for mitigating the conflict in interest.

UPPER CUMBERLAND DEVELOPMENT DISTRICT



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Cookeville, TN 38506
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Mike Foster

Vice Chairman
John Pelham

Secretary
Mike Gannon

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J. H. Graham

Executive Director
Wendy Askins

04 January 2012



Kathy Zamata, Interim Executive Director
Tennessee Commission on Aging and Disability
Andrew Jackson Building
500 Deaderick St., Suite 825
Nashville, TN 37243-0860

RE: Response to Unannounced Monitoring Visit of 16 December 2011

Dear Ms. Zamata:

On behalf of the Upper Cumberland Development District and the staff of the Area Agency on Aging and Disability, I would like to thank you for the opportunity to continually improve the quality of work we provide in the Upper Cumberland region. After reviewing the monitoring report of 27 December 2011, which resulted from the unannounced monitoring visit conducted by your staff on 16 December 2011, we have formulated corrective actions to address the Findings and Recommendations of the report. In addition, it is important that we clarify other areas that were misunderstood due to insufficient information gathering by your staff, to wit, Living the Dream Independent Living Facility.

This facility, and the need for it, was discussed many times with former TCAD Executive Director, Mike Hann. The establishment of this facility had much support from your office, as any project designed to assist low-income elderly and people with disabilities rightfully should. The elderly population of this country will double in less than ten years. Statistics show conclusively that many of these individuals, most especially those living at or below the poverty line, will be permanently institutionalized due to a lack of housing opportunities. Living the Dream offers just such an opportunity. Unfortunately, your monitoring staff, even though invited to do so, did not avail themselves of the opportunity to visit Living the Dream to see the facility and its operation firsthand.

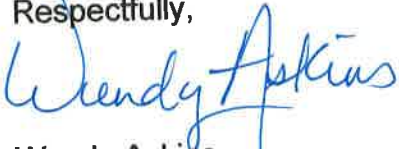
The primary mission of the Upper Cumberland Development District is to improve the quality of life of those we serve. Assistance in furthering our mission is much

appreciated, especially when it comes from our partnering agencies. We strive to be as efficient and accountable as possible; our constituents expect as much.

Perhaps in the future, when your staff is looking for "somewhere to go on a rainy day", in addition to a cursory examination of a small number of files, they could take time to review the myriad beneficial programs and projects the Upper Cumberland Development District and its dedicated staff work tirelessly to provide the people of the Upper Cumberland, such as Living the Dream Independent Living Facility.

Enclosed you will find a Corrective Action Plan addressing the Provider Information and Contract Review, Conclusions, and Findings for Options and the Public Guardianship programs.

Respectfully,



Wendy Askins
Executive Director
Upper Cumberland Development District

Enclosure

WA/rdw

Clarifications for the Information & Contract Review

L.A. Management Company was set up as a for-profit corporation with the initial filing completed on June 12, 2010. The Company was dissolved on November 3, 2011. As all corporations operating under the umbrella of the Upper Cumberland Development District, L.A. Management provided no financial gain to any UCDD staff or management. It was never the intent for any individual to receive any type of financial gain but because of the perception of a conflict of interest, the company was dissolved.

The AAAD initiated a contract with L.A. Management effective January 5, 2011. Prior to the signing of the contract, the AAAD Quality Assurance staff person completed an initial monitoring review on January 3, 2011. At that time, L.A. Management had no employees. Wendy Askins and Larry Webb were not employees and received no financial compensation from L.A. Management. Askins and Webb serve as the registered agents for the corporation, which is a common practice in developing new projects for the region. Prior to dissolving the corporation, L.A. Management employed five caregivers: Sherry Weaver, Mary Rufner, Renee Navalta, Angela Medley, and Jennifer Weaver. There are employee records on file for each person employed by L.A. Management. At the time the Corporation was dissolved, the Annual monitoring review was not due.

LTD is not an Assisted Living Facility. LTD is a Boarding Home operating at 1125 Deer Creek Drive, in Cookeville. Again, Wendy Askins and Larry Webb are agents of the L.T.D. Corporation as they are for many of the other corporations operating under the umbrella of UCDD. Askins and Webb receive no financial gain from any of the corporations that UCDD has assisted in developing. UCDD initiates such projects for the purpose of serving low-income families in the region, which is in keeping with the mission and vision statements of UCDD. The Upper Cumberland Development District has not compromised any State and/or Federal laws, or violating any TCAD or UCDD policies and regulations.

In the Conclusion section, on page three (3) of the TCAD monitoring report, we would like to provide clarification. Client file 1347622048 contained a Mental Health/Behavior/Cognition section which was completed on the initial assessment, but not on the re-assessment. The Health section was not completed as there were no entries to be made. A N/A could have been added. A medication list was present for both the initial assessment and the re-assessment.

Client file 1220233976 was reviewed and errors were made by the service coordinator. Services should have been discontinued on April 15, 2011, but continued until July 2011. The client's correct date of birth was researched as there was a discrepancy between information in the client file and the SAMS database. The client's DOB was correct in the client file; an error was made when entering the information into SAMS.

There was a question about income for client 1373598277. The OPTIONS program is required to follow the Federal Benefits Rate, not the Federal Poverty Guideline. The client's income of \$1,133 per month is below 200% of the FBR (\$1,348); therefore a cost share computation was not required. An

indicator for eligibility for OPTIONS is falling within the FBR guidelines; however, the score for the waiting list is determined by need (SAMS ILA 2010).

Finally, client 1376113527 did not exceed the \$7,000.00 allowable cost. Ms. Askins was referenced in the client file as she has donated many hours of service to the Living the Dream project, as she has done for many other UCDD projects. She serves as one of the agents for the LTD project.

RESPONSE TO FINDINGS for OPTIONS

1. AAAD did not act effectively to enforce Federal and State laws, policies and regulations.

5-9 (1) AAAD must assume full contractual responsibility for assuring that all funds awarded to it under the OAA and under State of Tennessee or other federal appropriations are utilized in accordance with all federal and state laws, rules, policies and procedures in or referenced by the state agency policy manual.

DO NOT CONCUR -The Upper Cumberland Development District strives on a daily basis to be a good steward of all dollars and to meet or exceed all contractual obligations. The UCDD has clean yearly audits from an outside firm and is monitored by TCAD annually, with excellent results.

2. UCDD & AAAD did not adhere to a Code of Conduct.

1-5-.02 (4) No employee, officer, or agent of a non-governmental recipient award will participate in the selection of award, or administration of a contract subject to this sub-section where to his knowledge, any of the following had a financial interest in that contract:

- a. The employee, officer or agent
- b. Any member of his immediate family
- c. His Partner
- d. An organization in which any of the above is an officer, director or employee
- e. A person or organization with which any of the above individuals is negotiating or has any arrangement concerning prospective employment.

DO NOT CONCUR -1-5-.02 (4) No UCDD or AAAD employee received any personal financial gain from L.A. Management or Living the Dream. The goal of the projects was to assist low-income seniors.

1-5-.06 Contractor Responsibilities

- (1) Contracts will be made by the recipient of award only with responsible contractors who possess the potential to perform successfully under the terms and conditions of the

proposed procurement. Considerations must be given to such matters as contractor integrity, record of past performances, financial and technical resources and accessibility to other resources.

DO NOT CONCUR. L.A. Management was licensed by TennCare on September 1, 2010 and was approved by United Health Care as a service provider on March 1, 2011. The AAAD had every reason to believe that the service provider possessed the potential to perform successfully under the terms and conditions of the contract.

- (2) The procurement of files of the recipient of award for negotiated purchases in amounts of excess of \$10,000 must include the following pertinent information:
- a. Justification for the method of procurement
 - b. Basis for contractor selection or rejections
 - c. Basis for the cost or price negotiated
 - d. Basis for selection of contract type
 - e. A system for contract administration will be maintained by the recipient of award to assure contractor compliance with terms, conditions and specifications of the contract or order and to assure adequate and timely follow-up of all purchases.

DO NOT CONCUR -1-5-.06 It is the interpretation of this agency that the section referenced from the TCAD Policy manual refers to supplies, equipment and construction instead of service providers. However, the AAAD did contract with the said service provider that had the capacity to provide expected services. Service provider contracts are unit cost reimbursement contracts, therefore the anticipated dollar amount specified in the referenced policy does not apply.

3. The AAAD did not comply with OPTIONS program policy requirements.

16-2 (4) Assessments (OPTIONS) means a component of service coordination (case management) that evaluates individuals by administering a structured assessment instrument(s), approved by the state agency, to gather information about individuals to determine need and/or eligibility for services. Information collected must include health and nutritional status, financial status, activities of daily living, instrumental activities of daily living, physical environment and social support system.

CONCUR -16-2 (4) TCAD monitors the Upper Cumberland Area Agency on Aging and Disability on an annual basis. Historically, monitoring reviews have confirmed that UCAAAD does an excellent job following program guidelines and meeting the expectations of TCAD. At the time the unannounced monitoring visit was conducted on 12-16-11, a client file was reviewed where the re-assessment paper work was not complete. In-service training will be provided to staff to insure that all documents are completed properly in the future.

16-4 (4)Only consumers who are assessed with a pre-defined level of limitations of Activities of Daily Living (ADL) will be eligible for these services. Eligibility will be determined through the use of the Social Assistance Management System Independent Living Assessment (Nutrition Screening Initiative) 2010 (SAMS ILA (NSI) 2010).

CONCUR 16-4(4) As stated above in 16-2-(4) response, UCAAAD is monitored annually by TCAD and receives excellent reviews for the efficient manner in which records are kept and services that are provided. For the one client in question, the original assessment was completed thoroughly, but the re-assessment was incomplete. For the second client in question, an OPTIONS assessment was not completed due to the client having already being assessed for CHOICES. Additional training will be provided to staff to insure that all documents are completed properly in the future.

16-5 Priority- In providing services, priority shall be given to:

- (1) Adult protective services clients, if there is an open case.
- (2) Low income individuals.

DO NOT CONCUR - 16-5 UCAAAD always follows the priority requirements for serving clients. All clients who qualify for OPTIONS are low-income. If a client is determined to have a cost share it does not automatically mean they are placed at the bottom of the waiting list. The SAMS ILA 2010 score is the consideration for placement on the waiting list.

Clarifications for the Public Guardianship Desk Review

Client 424327401 executed a DPOA in October of 2009 following his wife's death. In the year preceding his move to Living the Dream Independent Living Facility, he resided at an established boarding home which did not operate as or hold a license as an assisted living facility. This client's placement options were extremely limited due to his low income level. The client became unhappy with this facility and asked to be moved. The costs of a licensed, assisted living facility were prohibitive for this client. Neither did he qualify for nursing home placement.

On October 29, 2010, the client moved to Living the Dream. Throughout his stay, for a period of less than two months, he was very pleased with his living arrangements. Unfortunately, this client suffered a sudden onset of symptoms related to his illness which required that he be hospitalized and ultimately placed in a nursing home facility which remained his residence until his death. A clerical error regarding the client's place of residence at the date of death incorrectly showed his old address.

Additionally, his monthly rent was reduced by \$100 when he moved to Living the Dream. We submit that quality care was provided to the client by the Public Guardian.

RESPONSE TO FINDINGS FOR THE PUBLIC GUARDIANSHIP PROGRAM

1. The District Public Guardian program violated policy by placing the client in an unlicensed facility.

DO NOT CONCUR Living the Dream is a boarding home. According to TCAD policy 10-3-(2) (j) Each district conservatorship program shall ensure that clients needing to be placed in a long-term or residential facility are admitted to and housed in facilities licensed or approved by the appropriate agencies. Note: 10-3-(2) falls under District Program responsibilities.

Prior to transferring to Living the Dream, the client in question resided at another established Boarding Home in Putnam County, which the Public Guardian had received prior permission from TCAD to utilize for guardianship clients.

2. The District Public Guardian program violated policy by placing the client in a facility, owned and operated by UCDD, the Public Guardian program's grantee agency, under which the program receives substantial benefit by funding. The financial relationship between the two programs creates a conflict of interest, and violation of policy.

DO NOT CONCUR Living the Dream is an independent, non-profit corporation functioning under the umbrella of UCDD. There are no profits from Living the Dream going to UCDD or any staff person at UCDD. In section 10-4 (2) of the TCAD Policy manual, which addresses Conflict of Interest, UCDD/AAAD has violated none of the sections ranging (a) thru (i).

In addition, UCDD's Policy and Procedures manual addresses Conflicts of Interest on pages 24 and 25. On page 24, the policy is clear, "An actual or potential conflict of interest occurs when an employee is in a position to influence a decision that may result in a **personal gain** for that employee or for a relative as a result of UCDD's business dealings". There is no personal gain to UCDD or any staff member of UCDD from Living the Dream.

3. DPOA ends on the death of the client. The Public Guardian program violated policy by continuing guardian services, which resulted in billing three months after the client's death.

DO NOT CONCUR We agree that the powers granted by a DPOA are terminated at death. Regarding the reference to “billing” three months after the client’s death, we wish to make it clear that no client funds were paid to the PG program after the client’s death.

We feel strongly that the PG has a continuing fiduciary duty to the client’s estate to “continue guardian services” to the extent necessary to properly close the client’s file and prepare an in-house accounting of the client’s funds.

TCAD policy 10-4-(7)-(a)-(8), “Beginning ninety days after the termination of conservatorship or death of a client, the case will no longer be counted as an active case by the state agency.”

This client died on June 3, 2011, and twenty units of service performed within the allotted ninety day period (which is assumed to be the “billing” violation referred to in the report) were listed on the TCAD quarterly activity report. As an active case for 90 days following death, (according to TCAD policies) and taking into consideration the necessary steps to be taken when a client dies, we submit that the reported 20 units are legitimate and not a violation of any policy.

The Public Guardianship program did not bill the client or receive compensation from the client’s funds after the date of death.

RESPONSE TO RECOMMENDATIONS FOR PLAN OF CORRECTION

1. Establish a consumer chart/record standardized format including, but not limited to:
 - a. There is a centralized filing system
Response: There is a centralized filing system for closed client files. Active client files are kept in the Service Coordinator’s office for efficiency.
 - b. There is an established chart/record order (how the individuals files are kept)
Response: There was an HCBS Chart Order procedure developed on May 27, 2011. Management will review the procedure with staff in the next staff meeting.
 - c. Individual files have the newest information placed on the top
Response: Issue was addressed in HCBS Chart Order procedure.
 - d. There is a standardized system for writing progress notes
Response: Acceptable formats for writing case notes will be reviewed; a standardized method will be selected; and staff will be trained to insure uniformity in client files.

- e. Assessment forms are completed in each individual's files

Response: Training will be provided for all staff to insure all forms are complete for each client.

- f. Supervisor regularly reviews and approves assessments and progress notes for completion

Response: Betty Scruggs, Quality Assurance, will pull a 10% sample of the client files each quarter for review.

- g. Supervisor regularly reviews that documentation in the SAMS database is complete

Response: Betty Scruggs, Quality Assurance, will review SAMS data for each of the clients in the 10% sample that is reviewed each quarter to ensure information is accurate and complete.

2. Revise procedures for the monitoring of providers including, but not limited to:

- a. Forms for initial credentialing of providers is complete

Response: Credentialing forms are reviewed at the initial monitoring visit. Copies of the licenses, the liability insurance and monitoring report are maintained in the provider's file, which is maintained at the AAAD. If employees are already hired at the time of the initial visit, their personnel files are reviewed for proper documentation.

- b. Verification of provider processes and compliance with contract monitoring during first three months of operation as a new provider

Response: The AAAD initiated a contract with L.A. Management effective January 5, 2011. Prior to the signing of the contract, the AAAD Quality Assurance staff person completed an initial monitoring review on January 3, 2011. TCAD Policy 16-14-(4) states that annual reviews are to be conducted with service providers. UCDD's contract with TCAD, for July 1, 2011 thru June 30, 2012, states on page 9, section A.6. that service provider contracts will be monitored at least annually.

- c. If a provider terminates a contract, then procedures are in place for ensuring that:

- 1) Services to the consumers are provided by another suitable provider

Response: In the Upper Cumberland Area Agency on Aging and Disability Policy and Procedure manual, in the Non-Waver HCBS Programs chapter, the topic of changing service providers is addressed. The policy states that the reason for the change will be documented in the client file and approved by the Assistant Director. Once again, a uniform method of writing case notes will be adopted and all appropriate staff will be trained.

- 2) The provider records are retained on those consumers

Response: Uniform case notes will be established and maintained in all case files to insure proper information is retained for all clients.

3. Establish and/or review Conflict of Interest policy and procedure for the agency

Response: The Upper Cumberland Development District has a Policy and Procedure manual that addresses Conflict of Interest on pages 24 and 25.

4. Conduct in-service training including, but not limited to:

- a. Standards for consumer file progress notes

Response: In-service training will be provided for all Service Coordinators to ensure consistency in progress notes.

- b. Documentation of records in SAMS database

Response: Quality Assurance will complete a 10% sampling of clients each quarter to review case files and SAMS data.

- c. Determining if an employee has a "Conflict of Interest" and procedures for mitigating the conflict of interest

Response: UCDD currently has such a policy and in addition follows TCAD guidelines to prevent conflict of interest issues.



**STATE OF TENNESSEE
COMMISSION ON AGING AND DISABILITY**

Andrew Jackson Building
500 Deaderick Street, Suite 825
Nashville, Tennessee 37243-0860
Voice 615-741-2056

Fax 615-741-3309
TDD 615-532-3893

Kathy Zamata
Interim Executive Director

January 17, 2012

Ms. Wendy Askins, Executive Director
Upper Cumberland Development District
1225 South Willow Avenue
Cookeville, TN 38506-4194

RE: UCDD's Plan of Correction for Dec. 16, 2011 Unannounced Monitoring Visit

Dear Ms. Askins:

The Tennessee Commission on Aging and Disability (TCAD) staff have reviewed the response and plan of correction received on January 6, 2012 by your agency regarding the unannounced site visit to review records of the clients referred to and served by LA Management Company and the guardian client referred to and served by Living the Dream facility.

In order for TCAD to consider approving the plan of correction, please provide the following additional information by Friday, January 27, 2011.

1. A copy of the license for Living the Dream. Please clarify what type of facility Living the Dream is since clients have been referred to this facility. Please clarify the relationship between Living the Dream and LA Management since both companies appear to have the same address.
2. In the response and plan of correction, the UCDD acknowledged a failure by the AAAD to comply with OPTIONS program policy requirements, and have proposed to provide in-service training to staff as the corrective action. There was no date given to accomplish this task or other necessary details. The following information is needed before the corrective action plan can be accepted:

- Indicate by what month the training will be completed
 - Indicate the form of proof that will be available to verify staff received instruction
 - Provide an outline of the instructional content for the in-service training
 - Include a plan for ensuring all new staff hired as Service Coordinators will receive the training
3. Nothing was proposed to assure more effective supervisory reviews of consumer records for assessments, notes, and SAMS data entry by agency service coordinators.
- What is the AAAD's plan to address this matter with the goal of improving the accuracy of consumer records?
 - Provide specific details regarding the techniques, and tools used for the quality assurance review of consumer files and the SAMS data entries for improvement of the records management.
4. The UCDD response of, "Do Not Concur" to the finding, "the AAAD did not act effectively to enforce Federal and State laws, policies and regulations", is inconsistent with the UCDD response of, "Do Concur", "the AAAD did not comply with OPTIONS program policy requirements." If the failure to comply with Options program policy is acknowledged, then the first statement that the AAAD did not effectively enforce laws, policies and regulations is also valid.

Thank you for your cooperation. If your staff needs further clarification of the request, please contact Kennettra Golden at 615-741-2056 ext. 114.

Sincerely,



Kathy Zamata

Interim Executive Director

- C Patty Ray, Director, Upper Cumberland Area Agency on Aging and Disability
Kennettra Golden, Monitoring and Review Supervisor, TCAD
Janet Lamb, Elder Rights Supervisor, TCAD

**UPPER CUMBERLAND DEVELOPMENT DISTRICT
AREA AGENCY ON AGING AND DISABILITY**

1225 South Willow Avenue
Cookeville, TN 38506
Phone: (931) 432-4111
Fax: (931) 432-8112

Chairman
Mike Foster

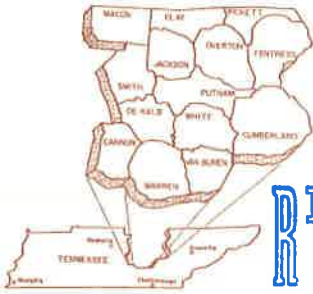
Vice Chairman
John Pelham

Secretary
Mike Gannon

Treasurer
J. H. Graham

Executive Director
Wendy Askins

Aging Director
Patty Ray



RECEIVED
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BY: _____

Wendy Askins
Executive Director

January 19, 2012

Kathy Zamata, Interim Executive Director
Tennessee Commission on Aging and Disability
500 Deaderick Street, Suite 825
Nashville, TN 37243-0860

RE: Corrective Action Plan (2nd response/ TCAD letter dated Jan. 17, 2012) for December 16, 2011
Unannounced Monitoring Visit

Dear Ms. Zamata:

- 1.) A copy of the license for Living the Dream. Please clarify what type of facility Living the Dream is since clients have been referred to this facility. Please clarify the relationship between Living the Dream and LA Management since both companies appear to have the same address.**

Living the Dream is an unlicensed Boarding Home. In Putman County, there is no license required or available for Boarding Homes. The Corporate Board of Directors for Living the Dream had investigated the possibility of the project being developed as an Assisted Living facility; however, the decision was made to open as a Boarding Home.

Living the Dream and L.A. Management corporations shared the same registered agent and L.A. Management had office space at Living the Dream. The purpose of L.A. Management was to provide services to eligible clients in the Upper Cumberland region. The goal of both corporations was to provide services to low-income seniors and those with disabilities who were not nursing home eligible and could not afford Assisted Living. When the perception of a conflict of interest was identified, L.A. Management terminated their contracts with United Health Care, AmeriGroup, and Options and the company was dissolved. L.A. Management was active for less than one year.

- 2.) In the response and plan of correction, the UCDD acknowledged a failure by the AAAD to comply with OPTIONS program policy requirements, and have proposed to provide in-service training to staff as the corrective action. There was no date given to accomplish this task or**

other necessary details. The following information is needed before the corrective action plan can be accepted:

- **Indicate by what month the training will be completed**
- **Indicate the form of proof that will be available to verify staff received instruction**
- **Provide an outline of the instructional content for the in-service training**
- **Include a plan for ensuring all new staff hired as Service Coordinators will receive the training**

In-service training for staff will be conducted on March 2, 2012. The AAAD will contract with the Director of the Case Management Masters program at Tennessee Technological University to provide training for all staff that do assessments, maintain client files, or do data entry of client information. On the same training day, Ryan Ellis and Donna Odom, from TCAD, will provide training to the AAAD staff on the SAMS database. An agenda for the training, an outline of the instructional material and the sign-in sheet will be provided to TCAD for the purpose of documenting the training provided to the AAAD staff. Instructional material from the March 2, 2012 training will be included in the "new hire" packets for any person hired to do assessments, maintain client files, or do data entry of client information into SAMS. The referenced material will be reviewed with the new employee by their supervisor. The Director of the AAAD has scheduled a visit to the First Tennessee AAAD, on February 22, to review the structure of their MIS process as related to the SAMS database.

3.) Nothing was proposed to assure more effective supervisory reviews of consumer records for assessments, notes, and SAMS data entry by agency service coordinators.

- **What is the AAAD's plan to address this matter with the goal of improving the accuracy of consumer records?**
- **Provide specific details regarding the techniques, and tools used for the quality assurance review of consumer files and the SAMS data entries for improvement of the records management.**

In section 1,(f),(g) of the Response to Recommendations for the Plan of Correction, the AAAD stated that our QA person will pull a 10% sample of the client files each quarter for review and will review those same client records in SAMS to insure accuracy. The UCAAAD Policy and Procedure Manual was updated on 1-3-12 to reflect this policy. (See Attachment #1) QA has also developed a checklist that will be completed while reviewing client files and the SAMS database. (See Attachment # 2). For clarification, if errors are discovered, the QA person will contact the supervisor, who will address the issue with the appropriate staff person responsible for the error. Corrections will be made and instruction will be provided to the staff person by the supervisor.

4.) The UCDD response of, "Do Not Concur" to the finding, "the AAAD did not act effectively to enforce Federal and State laws, policies and regulations", is inconsistent with the UCDD response of, "Do Concur", "the AAAD did not comply with OPTIONS program policy requirements." If the failure to comply with OPTIONS program policy is acknowledged, then

the first statement that the AAAD did not effectively enforce laws, policies and regulations is also valid.

The inconsistency pointed out in the two responses is a result of a misunderstanding of the two findings. The "Do Not Concur" response for the finding stating that the AAAD did not act effectively to enforce Federal and State laws, policies and regulations was speaking to intent. It has never been the intent of the AAAD to fail to comply with Federal and State laws, policies and regulations. We have always taken great pride in doing great work in the region for our citizens and have always made every effort to meet or exceed all grantor expectations. The AAAD indicated that we "Do Concur" with the finding addressing OPTIONS program policy requirements when incomplete paper work was identified in client files. The AAAD management staff regrets the errors and will make every effort to insure quality work is provided by staff. As addressed in section (2) and (3) of this report, every effort will be made to insure that staff are properly trained and quality work is being provided by the UCAAAD.

Sincerely,



Wendy Askins
Executive Director

- C Kenneth M. Kisiel, Commission Chairman, TCAD
 Patricia H. Miller, Chairperson of the Audit, TCAD Commission
 Justin P. Wilson, Tennessee Comptroller of the Treasury
 Kennetra Golden, Monitoring and Review Supervisor, TCAD
 Janet Lamb, Elder Rights Supervisor, TCAD
 Mickey Eldridge, Upper Cumberland Representative for TCAD Commission

QA FRAMEWORK

The UCDD/AAAD Quality Assurance framework shall be consumer-centered and shall encompass the following areas:

- Random chart review and face to face visits to consumers will be conducted capturing at least 10% of the active HCBS consumers being sure that each provider with active consumers during the quarter is reviewed. Review SAMS data for each of the 10% sampled consumers for accuracy and completion.
- I&A surveys will be mailed to all potential consumers contacted on the 1st and 15th of each month.
- Missed visits will be followed up and recorded on daily missed visit records. An excessive amount of missed visits will be discussed with the provider (and/or consumer) to try and resolve issues causing the missed visits.
- Providers that miss more than two visits out of 100 visits delivered will be issued a Corrective Action Plan in accordance with the approved missed visit policy.
- Complaints and incidents will be followed up, trended and where possible, positively resolved. (Refer to monthly Complaints and Incident reports).
- Provider refusals (as related to services) will be monitored quarterly. Repeated refusals to take consumers may result in dismissal of a provider from the service or placed on a referral hold until improvement has been documented.
- Annual Satisfaction Surveys will be conducted. Providers receiving less than satisfactory scores will be counseled on areas needing improvement. Follow-up satisfaction surveys will be used to monitor the providers' compliance.
- On-site QA visits will be made yearly to all program providers in the district. Effort will be made to obtain monitoring results from visits conducted by other districts if home office of provider is not located in our district. TCAD is responsible for monitoring all statewide providers. Monitoring visits may be made in conjunction with the yearly financial visits and may be announced or unannounced.

REPORTING REQUIREMENTS AND TRAINING

- The QA policies and procedures regarding reporting missed visits, complaints and incidents will be reviewed and covered during each new employee's orientation process for the UCDD/AAAD.
- The QA policies and procedures regarding reporting missed visits, complaints and incidents will also be reviewed annually with all UCDD/AAAD staff.
- The QA policies and procedures regarding reporting missed visits, complaints and incidents will also be reviewed annually at one of the Quarterly provider meetings as well as during each yearly monitoring visit done by the AAAD.

[illegible]

**CONTRACT BETWEEN THE
UPPER CUMBERLAND DEVELOPMENT DISTRICT
AND
LA Management Company d.b.a. Angels in Waiting**

This Contract, by and between the UPPER CUMBERLAND DEVELOPMENT DISTRICT AAAD, hereinafter referred to as the "UCDD" and LA Management Company d.b.a. Angels in Waiting hereinafter referred to as the "Contractor," is for the provision of HOMEMAKER AND PERSONAL CARE, as further defined in the "SCOPE OF SERVICES."

The Contractor A PUBLIC FOR PROFIT CORPORATION

Contractor Vendor Identification Number: **27-2886302**

Contractor Address: **1125 Deer Creek Drive, Cookeville, TN 38501**

Contractor Place of Incorporation or Organization: **TN**

A. SCOPE OF SERVICES:

A.1. The Contractor shall provide all service and deliverables as required, described, and detailed by this Scope of Services and shall meet all service and delivery timelines specified in the Scope of Services section or elsewhere in this Contract.

A.2. THE CONTRACTOR IS TO PROVIDE HOMEMAKER AND PERSONAL CARE

A 3. HOMEMAKER AND PERSONAL CARE Services

All services listed below must be provided according to the general requirements and service descriptions of the *Tennessee Commission on Aging and Disability, Policies and Procedures for Services Contracted through the Area Agencies on Aging and Disability*.

SERVICE NAME: HOMEMAKER SERVICES

SERVICE CATEGORY: In-home Services

SERVICE DEFINITION: The provision of homemaker assistance to eligible consumers who are unable to perform household and management tasks, and yet wish to remain in their own homes. Eligible consumers may be having difficulty with one or more of the following seven instrumental activities of daily living:

1. Preparing meals
2. Shopping for personal items
3. Medication management
4. Managing money
5. Using the telephone
6. Doing heavy housework
7. Doing light housework

SERVICE UNIT: One hour of direct eligible consumer service

SERVICE ACTIVITIES: The Area Agency on Aging and Disability will approve which activities will be performed.

Services of trained staff to assist eligible consumers whose routines have been disrupted by long or short term illness, disability or other problems to assume responsibility for routine household activities including menu planning, budgeting, shopping, meal preparation, general household management and light housekeeping.

Routine light housekeeping duties may include: sweeping, mopping, dusting, vacuuming, cleaning kitchens, bathrooms, changing linens, preparing meals and laundry.

Duties performed in each home will be according to the consumer's request and as authorized by the Area Agency on Aging and Disability.

Adequate records must be maintained as prescribed by the Area Agency on Aging and Disability.

The list of homemaker duties and responsibilities is not inclusive. The homemaker may be responsible for other duties as assigned from appropriate management personnel.

The homemaker abides by Agency Rules, Regulations, Policies, Procedures and agency handbook.

SPECIAL ELIGIBILITY:

Consumers must have a minimum of one (1) IADL limitation and an ADL/IADL score of at least three (3).

MINIMUM STANDARDS:

1. All service requirements apply.
2. The homemaker employee must:
 - A. be able to follow oral and written instructions
 - B. be mature as exhibited by timeliness and acting in a responsible manner at all times
 - C. be experienced with and/or have a compassionate attitude toward functionally based needs clients and older eligible consumers
 - D. report any changes in consumer's condition to the Area Agency on Aging and Disability or designee
 - E. be knowledgeable of different cultural backgrounds
 - F. be trained in homemaker services prior to the provision of the service
 - G. able to maintain accurate records
 - H. submit reports in on time
 - I. be in attendance at required training sessions
 - J. be trained and have a working knowledge in the following service topics:
 - a. General health
 - b. Safety
 - c. Personal hygiene
 - d. Observing and being alert to change in the eligible consumer's condition
 - e. Simple record keeping
 - f. Universal precautions
 - g. Basic first aid
 - h. Psychological and physical aspects of aging and disability
 - i. Concepts of nutrition
 - j. Shopping and errands
 - k. Basic household cleaning
 - l. Medication Assistance
 - m. PROVIDER staff will immediately notify GRANTOR if service was not delivered.

- K. Attempt to notify any changes in the schedule to consumer and case management agency prior to the scheduled visit.

SERVICE NAME: PERSONAL CARE SERVICES

SERVICE CATEGORY: In-Home Services

SERVICE DEFINITION: The provision of Personal Care assistance to eligible consumers will be in the form of providing personal assistance, stand-by assistance, supervision or cues for person having difficulties with one or more of the following five activities of daily living:

1. Eating
2. Dressing
3. Bathing
4. Toileting
5. Transferring in and out of bed.

SERVICE UNIT: One hour of direct eligible consumer service

SERVICE ACTIVITIES: The Area Agency on Aging and Disability will approve which activities will be performed.

SPECIAL ELIGIBILITY: Consumers must have a minimum of one (1) ADL limitation and an ADL/IADL score of at least three (3).

MINIMUM STANDARDS:.

1. All service requirements apply.
2. The personal care employee must:
 - A. be able to follow oral and written instructions
 - B. be mature as exhibited in timeliness and acting in a responsible manner at all times
 - C. Be experienced with and/or have a compassionate attitude toward functionally based needs clients and older eligible consumers.
 - D. report any changes in consumer's condition to the Area Agency on Aging and Disability or designee
 - E. be knowledgeable of different cultural backgrounds
 - F. be trained in homemaker services prior to the provision of the service
 - G. be able to maintain accurate records
 - H. submit reports on time
 - I. be in attendance at required training sessions
 - J. be trained and have a working knowledge in the following service topics:
 - a. General health.
 - b. Safety.
 - c. Personal hygiene.
 - d. Observing and being alert to change in the eligible consumer's condition.
 - e. Simple record keeping.
 - f. Universal precautions.
 - g. Basic first aid.
 - h. Psychological and physical aspects of aging and disability.
 - i. Concepts of nutrition.
 - j. Medication Assistance

- k. PROVIDER will use missed visit door tags to notify client that their service will not restart until a call is made to the GRANTOR.
l. PROVIDER staff will immediately notify GRANTOR if service was not delivered.

K. Attempt to notify any changes in the schedule to consumer and case management agency prior to the scheduled visit.

3. Personal care supervision must be provided by personnel who are readily available during work hours by telephone.

A.4. PROVISION OF SERVICE:

Location(s) of Office:

Name LA Management Company d.b.a. Angels in Waiting

Address 1125 Deer Creek Drive
Cookeville, TN 38501

Contact Person Michelle Price

Contact Phone 931-252-8823

Days of Service Availability Sunday - Saturday

Hrs of Service Availability 24/7

Geographic Area Covered CANNON, CLAY, CUMBERLAND, DEKALB, FENTRESS, JACKSON, MACON, OVERTON, PICKETT, PUTNAM, SMITH, VAN BUREN, WARREN, AND WHITE (Remove any county not in service area)

A.5. QUALITY OF SERVICE:

The Contractor shall ensure that quality services are provided to eligible consumers. The determination of quality must be based on an established quality assurance process.

A.6. TRAINING:

The Contractor will attend meetings or workshops sponsored by the UCDD and the Tennessee Commission on Aging and Disability, where appropriate.

B. CONTRACT TERM:

This Contract shall be effective for the period commencing on July 1, 2011 and ending on JUNE 30, 2012. The UCDD shall have no obligation for services rendered by the Contractor which are not performed within the specified period.

C. PAYMENT TERMS AND CONDITIONS:

- C.1. Maximum Liability. In no event shall the maximum liability of the UCDD under this Contract exceed TWENTY DOLLARS AND FORTY-FOUR CENTS (\$20.44) FOR OPTIONS HOMEMAKER AND EIGHTEEN DOLLARS AND FORTY CENTS (\$18.40) FOR TITLE III AND FAMILY CAREGIVER HOMEMAKER. In no event shall the maximum liability of the UCDD under this Contract exceed TWENTY DOLLARS AND FIFTY-TWO CENTS (\$20.52) FOR OPTIONS PERSONAL CARE AND EIGHTEEN DOLLARS AND FORTY-SEVEN CENTS (\$18.47) FOR FAMILY CAREGIVER PERSONAL CARE. .

The Service Rates in Section C.3 shall constitute the entire compensation due the Contractor for the Service and all of the Contractor's obligations hereunder regardless of the difficulty, materials

or equipment required. The Service Rates include, but are not limited to, all applicable taxes, fees, overheads, and all other direct and indirect costs incurred or to be incurred by the Contractor.

The Contractor is not entitled to be paid the maximum liability for any period under the Contract or any extensions of the Contract for work not requested by the UCDD. The maximum liability represents available funds for payment to the Contractor and does not guarantee payment of any such funds to the Contractor under this Contract unless the UCDD requests work and the Contractor performs said work. In which case, the Contractor shall be paid in accordance with the Service Rates detailed in Section C.3. The UCDD is under no obligation to request work from the Contractor in any specific dollar amounts or to request any work at all from the Contractor during any period of this Contract.

C.2. Compensation Firm. The Service Rates and the Maximum Liability of the UCDD under this Contract are firm for the duration of the Contract and are not subject to escalation for any reason unless amended.

C.3. Payment Methodology. The Contractor shall be compensated based on the Service Rates herein for units of service authorized by the UCDD in a total amount not to exceed the Contract Maximum Liability established in Section C.1. The Contractor's compensation shall be contingent upon the satisfactory completion of units of service or project milestones defined in Section A. The Contractor shall be compensated based upon the following Service Rates:

| Service | Amount |
|---|---------|
| 1 HOUR OPTIONS HOMEMAKER | \$20.44 |
| 1 HOUR TITLE III AND FAMILY CAREGIVER HOMEMAKER | \$18.40 |
| 1 HOUR OPTIONS PERSONAL CARE | \$20.52 |
| 1 HOUR FAMILY CAREGIVER PERSONAL CARE | \$18.47 |

The Contractor shall submit monthly invoices, in form and substance acceptable to the UCDD with all of the necessary supporting documentation, prior to any payment. Such invoices shall be submitted for completed units of service or project milestones for the amount stipulated.

C.4. Travel Compensation. The Contractor shall not be compensated or reimbursed for travel, meals, or lodging.

C.5. Payment of Invoice. The payment of the invoice by the UCDD shall not prejudice the UCDD's right to object to or question any invoice or matter in relation thereto. Such payment by the UCDD shall neither be construed as acceptance of any part of the work or service provided nor as an approval of any of the amounts invoiced therein. **All invoices are due by the 15th of the month following services rendered (i.e. July invoice due August 15th). UCDD reserves the right to refuse payment if invoices do not meet the due date specified.**

C.6. Invoice Reductions. The Contractor's invoice shall be subject to reduction for amounts included in any invoice or payment theretofore made which are determined by the UCDD, on the basis of audits conducted in accordance with the terms of this Contract, not to constitute proper remuneration for compensable services.

- C.7. Deductions. The UCDD reserves the right to deduct from amounts which are or shall become due and payable to the Contractor under this or any Contract between the Contractor and the UCDD any amounts which are or shall become due and payable to the UCDD by the Contractor.
- C.8. Automatic Deposits. The Contractor shall complete and sign an "Authorization Agreement for Automatic Deposit (ACH Credits) Form." This form shall be provided to the Contractor by the UCDD. Once this form has been completed and submitted to the UCDD by the Contractor all payments to the Contractor, under this or any other Contract the Contractor has with the State of Tennessee shall be made by Automated Clearing House (ACH). The Contractor shall not invoice the UCDD for services until the Contractor has completed this form and submitted it to the UCDD.
- D. STANDARD TERMS AND CONDITIONS:
- D.1. Required Approvals. The UCDD is not bound by this Contract or any amendment thereof until it is approved by the appropriate UCDD officials in accordance with applicable Tennessee State laws and regulations.
- D.2. Modification and Amendment. This Contract may be modified only by a written amendment executed by all parties hereto and approved by the appropriate UCDD officials in accordance with applicable Tennessee State laws and regulations.
- D.3. Termination for Cause. If the Contractor fails to properly perform its obligations under this Contract in a timely or proper manner, or if the Contractor violates any terms of this Contract, the UCDD shall have the right to immediately terminate the Contract and withhold payments in excess of fair compensation for completed services. Notwithstanding the above, the Contractor shall not be relieved of liability to the UCDD for damages sustained by virtue of any breach of this Contract by the Contractor.
- D.4. Subcontracting. The Contractor shall not assign this Contract or enter into a subcontract for any of the services performed under this Contract without obtaining the prior written approval of the UCDD. If such subcontracts are approved by the UCDD, they shall contain, at a minimum, sections of this Contract below pertaining to "Conflicts of Interest," "Nondiscrimination," and "Records" (as identified by the section headings). Notwithstanding any use of approved subcontractors, the Contractor shall be the prime contractor and shall be responsible for all work performed.
- D.5. Conflicts of Interest. The Contractor warrants that no part of the total Contract Amount shall be paid directly or indirectly to an employee or official of the State of Tennessee as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subcontractor, or consultant to the Contractor in connection with any work contemplated or performed relative to this Contract.
- D.6. Nondiscrimination. The Contractor hereby agrees, warrants, and assures that no person shall be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of this Contract or in the employment practices of the Contractor on the grounds of disability, age, race, color, religion, sex, national origin, or any other classification protected by Federal, Tennessee State constitutional, or statutory law. The Contractor shall, upon request, show proof of such nondiscrimination and shall post in conspicuous places, available to all employees and applicants, notices of nondiscrimination.
- D.7. Prohibition of Illegal Immigrants. The requirements of Public Acts of 2006, Chapter Number 878, of the state of Tennessee, addressing the use of illegal immigrants in the performance of any Contract to supply goods or services to the state of Tennessee, shall be a material provision of this Contract, a breach of which shall be grounds for monetary and other penalties, up to and including termination of this Contract.
- a. The Contractor hereby attests, certifies, warrants, and assures that the Contractor shall not knowingly utilize the services of an illegal immigrant in the performance of this

Contract and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant in the performance of this Contract. The Contractor shall reaffirm this attestation, in writing, by submitting to the UCDD a completed and signed copy of the document as Attachment 1, hereto, semi-annually during the period of this Contract. Such attestations shall be maintained by the contractor and made available to UCDD officials upon request.

- b. Prior to the use of any subcontractor in the performance of this Contract, and semi-annually thereafter, during the period of this Contract, the Contractor shall obtain and retain a current, written attestation that the subcontractor shall not knowingly utilize the services of an illegal immigrant to perform work relative to this Contract and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant to perform work relative to this Contract. Attestations obtained from such subcontractors shall be maintained by the contractor and made available to UCDD officials upon request.
- c. The Contractor shall maintain records for all personnel used in the performance of this Contract. Said records shall be subject to review and random inspection at any reasonable time upon reasonable notice by the UCDD.
- d. The Contractor understands and agrees that failure to comply with this section will be subject to the sanctions of Public Chapter 878 of 2006 for acts or omissions occurring after its effective date. This law requires the Commissioner of Finance and Administration to prohibit a contractor from contracting with, or submitting an offer, proposal, or bid to contract with the State of Tennessee to supply goods or services for a period of one year after a contractor is discovered to have knowingly used the services of illegal immigrants during the performance of this Contract.
- e. For purposes of this Contract, "illegal immigrant" shall be defined as any person who is not either a United States citizen, a Lawful Permanent Resident, or a person whose physical presence in the United States is authorized or allowed by the federal Department of Homeland Security and who, under federal immigration laws and/or regulations, is authorized to be employed in the U.S. or is otherwise authorized to provide services under the Contract.

- D.8. Records. The Contractor shall maintain documentation for all charges under this Contract. The books, records, and documents of the Contractor, insofar as they relate to work performed or money received under this Contract, shall be maintained for a period of three (3) full years from the date of the final payment and shall be subject to audit at any reasonable time and upon reasonable notice by the State, the Comptroller of the Treasury, or their duly appointed representatives. The financial statements shall be prepared in accordance with generally accepted accounting principles.
- D.9. Monitoring. The Contractor's activities conducted and records maintained pursuant to this Contract shall be subject to monitoring and evaluation by the State, the Comptroller of the Treasury, or their duly appointed representatives.
- D.10. Progress Reports. The Contractor shall submit brief, periodic, progress reports to the UCDD as requested.
- D.11. Strict Performance. Failure by any party to this Contract to insist in any one or more cases upon the strict performance of any of the terms, covenants, conditions, or provisions of this Contract shall not be construed as a waiver or relinquishment of any such term, covenant, condition, or provision. No term or condition of this Contract shall be held to be waived, modified, or deleted except by a written amendment signed by the parties hereto.
- D.12. Independent Contractor. The parties hereto, in the performance of this Contract, shall not act as employees, partners, joint ventures, or associates of one another. It is expressly acknowledged

by the parties hereto that such parties are independent contracting entities and that nothing in this Contract shall be construed to create an employer/employee relationship or to allow either to exercise control or direction over the manner or method by which the other transacts its business affairs or provides its usual services. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purpose whatsoever.

The Contractor, being an independent contractor and not an employee of the State, agrees to carry adequate public liability and other appropriate forms of insurance, including adequate public liability and other appropriate forms of insurance on the Contractor's employees, and to pay all applicable taxes incident to this Contract.

- D.13. UCDD Liability. The UCDD shall have no liability except as specifically provided in this Contract.
- D.14. Force Majeure. The obligations of the parties to this Contract are subject to prevention by causes beyond the parties' control that could not be avoided by the exercise of due care including, but not limited to, acts of God, riots, wars, strikes, epidemics or any other similar cause.
- D.15. State and Federal Compliance. The Contractor shall comply with all applicable State and Federal laws and regulations in the performance of this Contract.
- D.16. Governing Law. This Contract shall be governed by and construed in accordance with the laws of the State of Tennessee. The Contractor agrees that it will be subject to the exclusive jurisdiction of the courts of the State of Tennessee in actions that may arise under this Contract. The Contractor acknowledges and agrees that any rights or claims against the State of Tennessee or its employees hereunder, and any remedies arising there from, shall be subject to and limited to those rights and remedies, if any, available under *Tennessee Code Annotated*, Sections 9-8-101 through 9-8-407.
- D.17. Completeness. This Contract is complete and contains the entire understanding between the parties relating to the subject matter contained herein, including all the terms and conditions of the parties' agreement. This Contract supersedes any and all prior understandings, representations, negotiations, and agreements between the parties relating hereto, whether written or oral.
- D.18. Severability. If any terms and conditions of this Contract are held to be invalid or unenforceable as a matter of law, the other terms and conditions hereof shall not be affected thereby and shall remain in full force and effect. To this end, the terms and conditions of this Contract are declared severable.
- D.19. Headings. Section headings of this Contract are for reference purposes only and shall not be construed as part of this Contract.

E. SPECIAL TERMS AND CONDITIONS:

- E.1. Conflicting Terms and Conditions. Should any of these special terms and conditions conflict with any other terms and conditions of this Contract, these special terms and conditions shall control.
- E.2. Communications and Contacts. All instructions, notices, consents, demands, or other communications required or contemplated by this Contract shall be in writing and shall be made by facsimile transmission, by overnight courier service, or by first class mail, postage prepaid, addressed to the respective party at the appropriate facsimile number or address as set forth below or to such other party, facsimile number, or address as may be hereafter specified by written notice.

The UCDD:

WENDY ASKINS, EXECUTIVE DIRECTOR
UPPER CUMBERLAND DEVELOPMENT DISTRICT
1225 SOUTH WILLOW AVENUE, COOKEVILLE, TN 38506
Telephone # 931-432-4111
FAX # 931-432-8112

The Contractor:

LARRY WEBB, PRESIDENT
LA MANAGEMENT COMPANY d.b.a. ANGELS IN WAITING
1125 DEER CREEK DRIVE, COOKEVILLE, TN 38501
LAMANAGEMENT@CHARTER.NET
Telephone # 931-252-8823
Fax # 931-432-4242

All instructions, notices, consents, demands, or other communications shall be considered effectively given as of the day of delivery; as of the date specified for overnight courier service delivery; as of three (3) business days after the date of mailing; or on the day the facsimile transmission is received mechanically by the telefax machine at the receiving location and receipt is verbally confirmed by the sender if prior to 4:30 p.m. CST. Any communication by facsimile transmission shall also be sent by United States mail on the same date of the facsimile transmission.

- E.3. Subject to Funds Availability. The Contract is subject to the appropriation and availability of State and/or Federal funds. In the event that the funds are not appropriated or are otherwise unavailable, the UCDD reserves the right to terminate the Contract upon written notice to the Contractor. Said termination shall not be deemed a breach of Contract by the UCDD. Upon receipt of the written notice, the Contractor shall cease all work associated with the Contract. Should such an event occur, the Contractor shall be entitled to compensation for all satisfactory and authorized services completed as of the termination date. Upon such termination, the Contractor shall have no right to recover from the UCDD any actual, general, special, incidental, consequential, or any other damages whatsoever of any description or amount.
- E.4. Annual Report and Audit. The Contractor shall prepare and submit, within nine (9) months after the close of the reporting period, an annual report of its activities funded under this Contract to the commissioner or head of the contracting agency, the Tennessee Comptroller of the Treasury, and the Commissioner of Finance and Administration. The annual report for any Contractor that receives five hundred thousand dollars (\$500,000) or more in aggregate federal and state funding for all its programs shall include audited financial statements. All books of account and financial records shall be subject to annual audit by the Tennessee Comptroller of the Treasury or the Comptroller's duly appointed representative. When an audit is required, the Contractor may, with the prior approval of the Comptroller, engage a licensed independent public accountant to perform the audit. The audit contract between the Contractor and the licensed independent public accountant shall be on a contract form prescribed by the Tennessee Comptroller of the Treasury. Any such audit shall be performed in accordance with generally accepted government auditing standards, the provisions of OMB Circular A-133, if applicable, and the *Audit Manual for Governmental Units and Recipients of Grant Funds* published by the Tennessee Comptroller of the Treasury. The Contractor shall be responsible for reimbursement of the cost of the audit prepared by the Tennessee Comptroller of the Treasury, and payment of fees for the audit prepared by the licensed independent public accountant. Payment of the audit fees of the licensed independent public accountant by the Contractor shall be subject to the provisions

relating to such fees contained in the prescribed contract form noted above. Copies of such audits shall be provided to the designated cognizant state agency, the State Contracting Department, the Tennessee Comptroller of the Treasury, and the Department of Finance and Administration and shall be made available to the public.

- E.5. State Ownership of Work Products. The UCDD shall have all ownership right, title, and interest, including ownership of copyright, in all work products created, designed, developed, derived, documented, installed, or delivered to the UCDD under this Contract. The UCDD shall have royalty-free and unlimited rights to use, disclose, reproduce, or publish, for any purpose whatsoever, all said work products. The Contractor shall furnish such information and data upon request of the UCDD, in accordance with the Contract and applicable State law.
- E.6. Printing Authorization. The Contractor agrees that no publication coming within the jurisdiction of *Tennessee Code Annotated*, Section 12-7-101, *et. seq.*, shall be printed unless a printing authorization number has been obtained and affixed as required by *Tennessee Code Annotated*, Section 12-7-103 (d).
- E.7. Competitive Procurements. This Contract provides for reimbursement of the cost of goods, materials, supplies, equipment, or services. Such procurements shall be made on a competitive basis, where practical.
- E.8. State Furnished Property. The Contractor shall be responsible for the correct use, maintenance, and protection of all articles of nonexpendable, tangible, personal property furnished by the State for the Contractor's temporary use under this Contract. Upon termination of this Contract, all property furnished shall be returned to the State in good order and condition as when received, reasonable use and wear thereof excepted. Should the property be destroyed, lost, or stolen, the Contractor shall be responsible to the State for the residual value of the property at the time of loss.
- E.9. Incorporation of Additional Documents. Included in this Contract by reference are the following documents:
- a. The Contract document and its attachments
 - b. All Clarifications and addenda made to the Contractor's Proposal
 - c. The Request for Proposal and its associated amendments
 - d. Technical Specifications provided to the Contractor
 - e. The Contractor's Proposal

In the event of a discrepancy or ambiguity regarding the Contractor's duties, responsibilities, and performance under this Contract, these documents shall govern in order of precedence detailed above.

- E.10. Workpapers Subject to Review. The Contractor shall make all audit, accounting, or financial analysis workpapers, notes, and other documentation available for review by the Comptroller of the Treasury or his representatives, upon request, during normal working hours either while the analysis is in progress or subsequent to the completion of this Contract.
- E.11. Lobbying. The Contractor certifies, to the best of its knowledge and belief, that:

No federally appropriated funds have been paid or will be paid, by or on behalf of the Contractor, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, and entering into any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of

Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this contract, grant, loan, or cooperative agreement, the Contractor shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

The Contractor shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including sub-grants, subcontracts, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients of federally appropriated funds shall certify and disclose accordingly.

- E.12. Public Funding Notice. All notices, informational pamphlets, press releases, research reports, signs, and similar public notices prepared and released by the Contractor relative to this Contract shall include the statement, "This project is funded under an agreement with the State of Tennessee." Any such notices by the Contractor shall be approved by the State.
- E.13. Prohibited Advertising. The Contractor shall not refer to this Contract or the Contractor's relationship with the State hereunder in commercial advertising in such a manner as to state or imply that the Contractor or the Contractor's services are endorsed.
- E.14. Confidentiality of Records. Strict standards of confidentiality of records shall be maintained in accordance with the law. All material and information, regardless of form, medium or method of communication, provided to the Contractor by the State or acquired by the Contractor on behalf of the State shall be regarded as confidential information in accordance with the provisions of State law and ethical standards and shall not be disclosed, and all necessary steps shall be taken by the Contractor to safeguard the confidentiality of such material or information in conformance with State law and ethical standards.

The Contractor will be deemed to have satisfied its obligations under this section by exercising the same level of care to preserve the confidentiality of the State's information as the Contractor exercises to protect its own confidential information so long as such standard of care does not violate the applicable provisions of the first paragraph of this section.

The Contractor's obligations under this section do not apply to information in the public domain; entering the public domain but not from a breach by the Contractor of this Contract; previously possessed by the Contractor without written obligations to the State to protect it; acquired by the Contractor without written restrictions against disclosure from a third party which, to the Contractor's knowledge, is free to disclose the information; independently developed by the Contractor without the use of the State's information; or, disclosed by the State to others without restrictions against disclosure.

It is expressly understood and agreed the obligations set forth in this section shall survive the termination of this Contract.

- E.15. Copyrights and Patents. The Contractor agrees to indemnify and hold harmless the State of Tennessee as well as its officers, agents, and employees from and against any and all claims or suits which may be brought against the State for infringement of any laws regarding patents or copyrights which may arise from the Contractor's performance of this Contract. In any such action brought against the State, the Contractor shall satisfy and indemnify the State for the amount of any final judgment for infringement. The Contractor further agrees it shall be liable for the reasonable fees of attorneys for the State in the event such service is necessitated to enforce the terms of this Contract or otherwise enforce the obligations of the Contractor to the State. The State shall give the Contractor written notice of any such claim or suit and full right and opportunity to conduct the Contractor's own defense thereof.
- E.16. Public Accountability. If the Contractor is subject to *Tennessee Code Annotated*, Title 8, Chapter 4, Part 4 or if this Contract involves the provision of services to citizens by the Contractor on behalf of the State, the Contractor agrees to establish a system through which recipients of services may present grievances about the operation of the service program, and the Contractor

shall display in a prominent place, located near the passageway through which the public enters in order to receive services pursuant to this Contract, a sign at least twelve inches (12") in height and eighteen inches (18") in width stating:

NOTICE: THIS AGENCY IS A RECIPIENT OF TAXPAYER FUNDING. IF YOU OBSERVE AN AGENCY DIRECTOR OR EMPLOYEE ENGAGING IN ANY ACTIVITY WHICH YOU CONSIDER TO BE ILLEGAL, IMPROPER, OR WASTEFUL, PLEASE CALL THE STATE COMPTROLLER'S TOLL-FREE HOTLINE: 1-800-232-5454

E.17. Environmental Tobacco Smoke. Pursuant to the provisions of the federal "Pro-Children Act of 1994" and the Tennessee "Children's Act for Clean Indoor Air of 1995," the Contractor shall prohibit smoking of tobacco products within any indoor premises in which services are provided pursuant to this Contract to individuals under the age of eighteen (18) years. The Contractor shall post "no smoking" signs in appropriate, permanent sites within such premises. This prohibition shall be applicable during all hours, not just the hours in which children are present. Violators of the prohibition may be subject to civil penalties and fines. This prohibition shall apply to and be made part of any subcontract related to this Contract.

E.18. Hold Harmless. The Contractor agrees to indemnify and hold harmless the State of Tennessee as well as its officers, agents, and employees from and against any and all claims, liabilities, losses, and causes of action which may arise, accrue, or result to any person, firm, corporation, or other entity which may be injured or damaged as a result of acts, omissions, or negligence on the part of the Contractor, its employees, or any person acting for or on its or their behalf relating to this Contract. The Contractor further agrees it shall be liable for the reasonable cost of attorneys for the State in the event such service is necessitated to enforce the terms of this Contract or otherwise enforce the obligations of the Contractor to the State.

In the event of any such suit or claim, the Contractor shall give the State immediate notice thereof and shall provide all assistance required by the State in the State's defense. The State shall give the Contractor written notice of any such claim or suit, and the Contractor shall have full right and obligation to conduct the Contractor's own defense thereof. Nothing contained herein shall be deemed to accord to the Contractor, through its attorney(s), the right to represent the State of Tennessee in any legal matter, such rights being governed by *Tennessee Code Annotated*, Section 8-6-106.

E.19. Tennessee Consolidated Retirement System. The Contractor acknowledges and understands that, subject to statutory exceptions contained in *Tennessee Code Annotated*, Section 8-36-801, *et. seq.*, the law governing the Tennessee Consolidated Retirement System (TCRS), provides that if a retired member of TCRS, or of any superseded system administered by TCRS, or of any local retirement fund established pursuant to *Tennessee Code Annotated*, Title 8, Chapter 35, Part 3 accepts state employment, the member's retirement allowance is suspended during the period of the employment. Accordingly and notwithstanding any provision of this Contract to the contrary, the Contractor agrees that if it is later determined that the true nature of the working relationship between the Contractor and the State under this Contract is that of "employee/employer" and not that of an independent contractor, the Contractor may be required to repay to TCRS the amount of retirement benefits the Contractor received from TCRS during the period of this Contract.

E.20. Debarment and Suspension. The Contractor certifies, to the best of its knowledge and belief, that it and its principals:

- a. are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal or State department or agency;
- b. have not within a three (3) year period preceding this Contract been convicted of, or had a civil judgment rendered against them from commission of fraud, or a criminal offence in connection with obtaining attempting to obtain, or performing a public (Federal, State, or Local) transaction or grant under a public transaction; violation of Federal or State

antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification, or destruction of records, making false statements, or receiving stolen property;

- c. are not presently indicted for or otherwise criminally or civilly charged by a government entity (Federal, State, or Local) with commission of any of the offenses detailed in section b. of this certification; and
- d. have not within a three (3) year period preceding this Contract had one or more public transactions (Federal, State, or Local) terminated for cause or default.

E.21. HIPAA Compliance. The State and Contractor shall comply with obligations under the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and its accompanying regulations.

- a. Contractor warrants to the UCDD that it is familiar with the requirements of HIPAA and its accompanying regulations, and will comply with all applicable HIPAA requirements in the course of this Contract.
- b. Contractor warrants that it will cooperate with the UCDD, including cooperation and coordination with UCDD privacy officials and other compliance officers required by HIPAA and its regulations, in the course of performance of the Contract so that both parties will be in compliance with HIPAA.
- c. The UCDD and the Contractor will sign documents, including but not limited to business associate agreements, as required by HIPAA and that are reasonably necessary to keep the UCDD and Contractor in compliance with HIPAA. This provision shall not apply if information received by the UCDD under this Contract is NOT "protected health information" as defined by HIPAA, or if HIPAA permits the UCDD to receive such information without entering into a business associate agreement or signing another such document.

F. SPECIAL CONTRACT CONDITIONS:

F.1. Attach a schedule of approved holiday closings. The Agency observes the following paid holidays throughout the year as follows:

| | | | |
|------------------|------------------|------------------|------------------|
| ❖ Insert Holiday | ❖ Insert Holiday | ❖ Insert Holiday | ❖ Insert Holiday |
| ❖ Insert Holiday | ❖ Insert Holiday | ❖ Insert Holiday | ❖ Insert Holiday |
| ❖ | ❖ | ❖ | ❖ |

Client care plans take precedence over any holiday closings

F.2. SPECIAL ELIGIBILITY:

1. The provider agency must document in its personnel files:
 - A. The applicant's statement of prior convictions and all allegations to attempt to commit crimes.
 - B. The results of its check of two personal and/or employment references.
 - C. The results of a local or state law enforcement background check. Anyone who has less than 24 months residency in the state of Tennessee shall have verification of the state abuse and felony registries and local law enforcement background check from the city and state they relocated from if those registries are available.
 - D. The results of the check of Department of Health database of licensed health professionals including CNAs; National Sex Offender Registry; Tennessee Felony Offender Registry; and Tennessee Abuse Registries.
 - E. The Results of any other checks conducted by the provider agency.
 - F. Justification/explanation of the decision to employ an individual if the background check identified negative information.
 - G. Records of all training completed.

H. Application and date of hire

2. Where applicable employees having direct contact with consumers should have on file a statement verifying their vaccination history for Hepatitis B and Tetanus. Employees should also have a working knowledge of Universal Precautions.
3. Supervision of personal care attendants must be provided by a registered nurse, licensed to practice nursing in the state of Tennessee, or a licensed practical or vocational nurse under the supervision of a registered nurse, as provided under state law, or an individual with a Bachelor's degree in a social services field (or equivalent social services experience). Frequency of supervision is as needed or at least every thirty (30) days, one in-home visit with each personal care worker.

HIPAA BUSINESS ASSOCIATE AGREEMENT

THIS BUSINESS ASSOCIATE AGREEMENT (hereinafter "Agreement") is between **Upper Cumberland Development District** (hereinafter "Covered Entity") and **LA Management Company d.b.a. Angels in Waiting** (hereinafter "Business Associate"). Covered Entity and Business Associate may be referred to herein individually as "Party" or collectively as "Parties."

BACKGROUND

Covered Entity acknowledges that it is subject to the Privacy Rule (45 CFR Parts 160 and 164) promulgated by the United States Department of Health and Human Services pursuant to the Health Insurance Portability and Accountability Act of 1996 (HIPAA), Public Law 104-191.

Business Associate provides services or goods to Covered Entity pursuant to one or more contractual relationships detailed below and hereinafter referred to as "Service Contracts".

LIST OF CONTRACTS AFFECTED BY HIPAA REQUIREMENTS

Personal Care Services
Homemaker

In the course of executing Service Contracts, Business Associate may come into contact with, use, or disclose Protected Health Information (defined in Section 1.7 below). Said Service Contracts are hereby incorporated by reference and shall be taken and considered as a part of this document the same as if fully set out herein.

In accordance with the federal privacy regulations set forth at 45 C.F.R. Part 160 and Part 164, Subparts A and E, which require Covered Entity to have a written contract with each of its Business Associates, the Parties wish to establish satisfactory assurances that Business Associate will appropriately safeguard "Protected Health Information" and, therefore, make this Agreement.

1. DEFINITIONS

- 1.1. Terms used, but not otherwise defined, in this Agreement shall have the same meaning as those terms in 45 CFR §§ 160.103 and 164.501.
- 1.2. "Designated Record Set" shall have the meaning set out in its definition at 45 C.F.R. § 164.501.
- 1.3. "Health Care Operations" shall have the meaning set out in its definition at 45 C.F.R. § 164.501.
- 1.4. "Individual" shall have the same meaning as the term "individual" in 45 CFR § 164.501 and shall include a person who qualifies as a personal representative in accordance with 45 CFR § 164.502(g).
- 1.5. "Privacy Officer" shall have the meaning as set out in its definition at 45 C.F.R. § 164.530(a)(1).
- 1.6. "Privacy Rule" shall mean the Standards for Privacy for Individually Identifiable Health Information at 45 CFR Part 160 and Part 164, subparts A and E.
- 1.7. "Protected Health Information" shall have the same meaning as the term "protected health information" in 45 CFR § 164.501, limited to the information created or received by Business Associate from or on behalf of Covered Entity.
- 1.8. "Required By Law" shall have the same meaning as the term "required by law" in 45 CFR § 164.501.

2. OBLIGATIONS AND ACTIVITIES OF BUSINESS ASSOCIATE

- 2.1. Business Associate agrees to fully comply with the requirements under the Privacy Rule applicable to "business associates," as that term is defined in the Privacy Rule and not use or further disclose Protected Health Information other than as permitted or required by this Agreement, Service Contracts, or as Required By Law. In case of any conflict between this Agreement and Service Contracts, this Agreement shall govern.
- 2.2. Business Associate agrees to use appropriate procedural, physical, and electronic safeguards to prevent use or disclosure of Protected Health Information other than as provided for by this Agreement. Said safeguards shall include, but are not limited to, requiring employees to agree to use or disclose Protected Health Information only as permitted or required by this Agreement and taking related disciplinary actions for inappropriate use or disclosure as necessary.
- 2.3. Business Associate shall require any agent, including a subcontractor, to whom it provides Protected Health Information received from, created or received by, Business Associate on behalf of Covered Entity or that carries out any duties for the Business Associate involving the use, custody, disclosure, creation of, or access to Protected Health Information, to agree, by written contract with Business Associate, to the same restrictions and conditions that apply through this Agreement to Business Associate with respect to such information.

- 2.4. Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of Protected Health Information by Business Associate in violation of the requirements of this Agreement.
- 2.5. Business Associate agrees to require its employees, agents, and subcontractors to immediately report, to Business Associate, any use or disclosure of Protected Health Information in violation of this Agreement and to report to Covered Entity any use or disclosure of the Protected Health Information not provided for by this Agreement.
- 2.6. If Business Associate receives Protected Health Information from Covered Entity in a Designated Record Set, then Business Associate agrees to provide access, at the request of Covered Entity, to Protected Health Information in a Designated Record Set, to Covered Entity or, as directed by covered Entity, to an Individual in order to meet the requirements under 45 CFR § 164.524, provided that Business Associate shall have at least **Twenty Days (20)** days from Covered Entity notice to provide access to, or deliver such information.
- 2.7. If Business Associate receives Protected Health Information from Covered Entity in a Designated Record Set, then Business Associate agrees to make any amendments to Protected Health Information in a Designated Record Set that the Covered Entity directs or agrees to pursuant to the 45 CFR § 164.526 at the request of Covered Entity or an Individual, and in the time and manner designated by Covered Entity, provided that Business Associate shall have at least **Twenty Days (20)** days from Covered Entity notice to make an amendment.
- 2.8. **Business Associate agrees to make its internal practices, books, and records including policies and procedures and Protected Health Information, relating to the use and disclosure of Protected Health Information received from, created by or received by Business Associate on behalf of, Covered Entity available to the Secretary of the United States Department of Health in Human Services or the Secretary's designee, in a time and manner designated by the Secretary, for purposes of determining Covered Entity's or Business Associate's compliance with the Privacy Rule.**
- 2.9. Business Associate agrees to document disclosures of Protected Health Information and information related to such disclosures as would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosure of Protected Health Information in accordance with 45 CFR § 164.528.
- 2.10. Business Associate agrees to provide Covered Entity or an Individual, in time and manner designated by Covered Entity, information collected in accordance with this Agreement, to permit Covered Entity to respond to a request by an Individual for and accounting of disclosures of Protected Health Information in accordance with 45 CFR § 164.528, provided that Business Associate shall have at least **Thirty Days (30)** days from Covered Entity notice to provide access to, or deliver such information which shall include, at minimum, (a) date of the disclosure; (b) name of the third party to whom the Protected Health Information was disclosed and, if

known, the address of the third party; (c) brief description of the disclosed information; and (d) brief explanation of the purpose and basis for such disclosure.

- 2.11. Business Associate agrees it must limit any use, disclosure, or request for use or disclosure of Protected Health Information to the minimum amount necessary to accomplish the intended purpose of the use, disclosure, or request in accordance with the requirements of the Privacy Rule.
 - 2.11.1. Business Associate represents to Covered Entity that all its uses and disclosures of, or requests for, Protected Health Information shall be the minimum necessary in accordance with the Privacy Rule requirements.
 - 2.11.2. Covered Entity may, pursuant to the Privacy Rule, reasonably rely on any requested disclosure as the minimum necessary for the stated purpose when the information is requested by Business Associate.
 - 2.11.3. Business Associate acknowledges that if Business Associate is also a covered entity, as defined by the Privacy Rule, Business Associate is required, independent of Business Associate's obligations under this Agreement, to comply with the Privacy Rule's minimum necessary requirements when making any request for Protected Health Information from Covered Entity.
- 2.12. **Business Associate agrees to adequately and properly maintain all Protected Health Information received from, or created or received on behalf of, Covered Entity and to document subsequent uses and disclosures of such information by Business Associate as may be deemed necessary and appropriate by the Covered Entity.**
- 2.13. If Business Associate receives a request from an Individual for a copy of the individual's Protected Health Information, and the Protected Health Information is in the sole possession of the Business Associate, Business Associate will provide the requested copies to the individual and notify the Covered Entity of such action. If Business Associate receives a request for Protected Health Information in the possession of the Covered Entity, or receives a request to exercise other individual rights as set forth in the Privacy Rule, Business Associate shall notify Covered Entity of such request and forward the request to Covered Entity. Business Associate shall then assist Covered Entity in responding to the request.
- 2.14. Business Associate agrees to fully cooperate in good faith with and to assist Covered Entity in complying with the requirements of the Privacy Rule.

3. PERMITTED USES AND DISCLOSURES BY BUSINESS ASSOCIATE

- 3.1. Except as otherwise limited in this Agreement, Business Associate may use or disclose Protected Health Information to perform functions, activities, or services for, or on behalf of, Covered Entity as specified in Service Contracts, provided that such use or disclosure would not violate the Privacy Rule if done by Covered Entity.
- 3.2. Except as otherwise limited in this Agreement, Business Associate may use Protected Health Information as required for Business Associate's proper

management and administration or to carry out the legal responsibilities of the Business Associate.

- 3.3. Except as otherwise limited in this Agreement, Business Associate may disclose Protected Health Information for the proper management and administration of the Business Associate, provided that disclosures are Required By Law, or provided that, if Business Associate discloses any Protected Health Information to a third party for such a purpose, Business Associate shall enter into a written agreement with such third party requiring the third party to: (a) maintain the confidentiality of Protected Health Information and not to use or further disclose such information except as Required By Law or for the purpose for which it was disclosed, and (b) notify Business Associate of any instances in which it becomes aware in which the confidentiality of the Protected Health Information is breached.
- 3.4. Except as otherwise limited in this Agreement, Business Associate may use Protected Health Information to provide Data Aggregation services to Covered Entity as permitted by 42 CFR § 164.504(e)(2)(I)(B).

4. OBLIGATIONS OF COVERED ENTITY

- 4.1. Covered Entity shall provide Business Associate with the notice of privacy practices that Covered Entity produces in accordance with 45 CFR § 164.520, as well as any changes to such notice.
- 4.2. Covered Entity shall provide Business Associate with any changes in, or revocation of, permission by an Individual to use or disclose Protected Health Information, if such changes affect Business Associate's permitted or required uses.
- 4.3. Covered Entity shall notify Business Associate of any restriction to the use or disclosure of Protected Health Information that Covered Entity has agreed to in accordance with 45 CFR § 164.522, to the extent that such restriction may affect Business Associate's use of Protected Health Information.

5. PERMISSIBLE REQUESTS BY COVERED ENTITY

- 5.1. Covered Entity shall not request Business Associate to use or disclose Protected Health Information in any manner that would not be permissible under the Privacy Rule if done by Covered Entity.

6. TERM AND TERMINATION

- 6.1. Term. This Agreement shall be effective as of the date on which it is signed by both parties and shall terminate when all of the Protected Health Information provided by Covered Entity to Business Associate, or created or received by Business Associate on behalf of Covered Entity, is destroyed or returned to Covered Entity, or, if it is infeasible to return or destroy Protected Health Information, Section 6.3. below shall apply.
- 6.2. Termination for Cause.

6.2.1. This Agreement authorizes and Business Associate acknowledges and agrees Covered Entity shall have the right to immediately terminate this Agreement and Service Contracts in the event Business Associate fails to comply with, or violates a material provision of, requirements of the Privacy Rule or this Agreement.

6.2.2. Upon Covered Entity's knowledge of a material breach by Business Associate,

6.2.2.1. Covered Entity shall, whenever practicable, provide a reasonable opportunity for Business Associate to cure the breach or end the violation.

6.2.2.2. If Business Associate has breached a material term of this Agreement and cure is not possible or if Business Associate does not cure a curable breach or end the violation within a reasonable time as specified by, and at the sole discretion of, Covered Entity, Covered Entity may immediately terminate this Agreement and Service Contracts.

6.2.2.3. If neither cure nor termination are feasible, Covered Entity shall report the violation to the Secretary of the United States Department of Health in Human Services or the Secretary's designee.

6.3. Effect of Termination.

6.3.1. Except as provided in Section 6.3.2. below, upon termination of this Agreement, for any reason, Business Associate shall return or destroy all Protected Health Information received from Covered Entity, or created or received by Business Associate on behalf of, Covered Entity. This provision shall apply to Protected Health Information that is in the possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of the Protected Health Information.

6.3.2. In the event that Business Associate determines that returning or destroying the Protected Health Information is not feasible, Business Associate shall provide to Covered Entity notification of the conditions that make return or destruction unfeasible. Upon mutual agreement of the Parties that return or destruction of Protected Health Information is unfeasible, Business Associate shall extend the protections of this Agreement to such Protected Health Information and limit further uses and disclosures of such Protected Health Information to those purposes that make the return or destruction unfeasible, for so long as Business Associate maintains such Protected Health Information.

7. **MISCELLANEOUS**

7.1. Regulatory Reference. A reference in this Agreement to a section in the Privacy Rule means the section as in effect or as amended.

7.2. Amendment. The Parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for Covered Entity to comply with the requirements of the Privacy Rule and the Health Insurance Portability and Accountability Act, Public Law 104-191. Business Associate and Covered Entity shall comply with any amendment to the Privacy Rule, the Health Insurance

Portability and Accountability Act, Public Law 104-191, and related regulations upon the effective date of such amendment, regardless of whether this Agreement has been formally amended.

- 7.3. Survival. The respective rights and obligations of Business Associate under Section 6.3. of this Agreement shall survive the termination of this Agreement.
- 7.4. Interpretation. Any ambiguity in this Agreement shall be resolved in favor of a meaning that permits Covered Entity **and the Business Associate** to comply with the Privacy Rule.
- 7.5. Notices and Communications. All instructions, notices, consents, demands, or other communications required or contemplated by this Agreement shall be in writing and shall be delivered by hand, by facsimile transmission, by overnight courier service, or by first class mail, postage prepaid, addressed to the respective party at the appropriate facsimile number or address as set forth below, or to such other party, facsimile number, or address as may be hereafter specified by written notice.

COVERED ENTITY:

**Wendy Askins, Executive Director
Upper Cumberland Development
District
Area Agency on Aging and
Disability
1225 South Willow Avenue
Cookeville, TN 38506
Telephone: (931) 432-4111
Fax: (931) 432-6010**

BUSINESS ASSOCIATE:

**Larry Webb, President
LA Management Company
d.b.a. Angels in Waiting
1125 Deer Creek Drive
Cookeville, TN 38501
Telephone: (931) 252-8823
Fax: (931) 432-4242**

All instructions, notices, consents, demands, or other communications shall be considered effectively given as of the date of hand delivery; as of the date specified for overnight courier service delivery; as of three (3) business days after the date of mailing; or on the day the facsimile transmission is received mechanically by the facsimile machine at the receiving location and receipt is verbally confirmed by the sender.

- 7.6. Strict Compliance. No failure by any Party to insist upon strict compliance with any term or provision of this Agreement, to exercise any option, to enforce any right, or to seek any remedy upon any default of any other Party shall affect, or constitute a waiver of, any Party's right to insist upon such strict compliance, exercise that option, enforce that right, or seek that remedy with respect to that default or any prior, contemporaneous, or subsequent default. No custom or practice of the Parties at variance with any provision of this Agreement shall affect, or constitute a waiver of, any Party's right to demand strict compliance with all provisions of this Agreement.
- 7.7. Severability. With respect to any provision of this Agreement finally determined by a court of competent jurisdiction to be unenforceable, such court shall have jurisdiction to reform such provision so that it is enforceable to the maximum extent

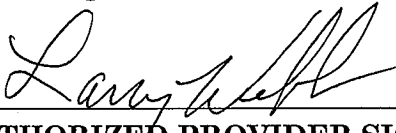
permitted by applicable law, and the Parties shall abide by such court's determination. In the event that any provision of this Agreement cannot be reformed, such provision shall be deemed to be severed from this Agreement, but every other provision of this Agreement shall remain in full force and effect.

7.8. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Tennessee.

7.9. Compensation. There shall be **no** remuneration for performance under this HIPAA Business Associate Agreement except as specifically provided by, in, and through, contractual relationships referenced herein.

IN WITNESS WHEREOF:

LA Management Company d.b.a. Angels in Waiting:



AUTHORIZED PROVIDER SIGNATURE

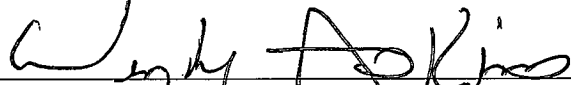
7-27-2011

DATE

Larry Webb, President

PRINTED NAME AND TITLE OF AUTHORIZED PROVIDER SIGNATORY (above)

Upper Cumberland Development District:



Wendy Askins, Executive Director

7/27/11

DATE

**Upper Cumberland
Area Agency on Aging and Disability
FY2011/2012 Policy 22 Monitoring Review
January 11 - 13, 2012**

**Jim Shulman, Executive Director
Tennessee Commission on Aging and Disability**

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Introduction

The primary goal of the Tennessee Commission on Aging and Disability's (TCAD) Policy 22 Monitoring and Review team is to ensure that older people and adults with disabilities receive services that meet or exceed standard practices. In addition, TCAD monitors to ensure all grantee agencies and their contract service providers continuously strive to improve the statewide service delivery system and comply with all federal and state laws and regulations as well as meet their contractual obligations.

TCAD uses a variety of strategies to monitor, review, and assess the Commission's grantees and their contract service providers. The nine (9) Area Agencies on Aging and Disability (AAAD) grantee agencies are required to submit quarterly financial statements and quarterly and annual program reports. Area Agencies submit area plans and maintain a management information system. The monitoring and review staff at the AAADs and at TCAD analyzes the reports and data to ensure that adopted standards are met and that the service providers are working toward quality improvement.

The members of the Policy 22 monitoring and review team for the Upper Cumberland Area Agency on Aging and Disability (UCAAAD) on-site review was conducted by Darla Bennings, Aging Program Coordinator, Mark Hanna, CPA, Auditor 3, and Kennettra Golden, the Aging Program Supervisor. Work papers from all monitors are available for review.

Executive Summary

The Upper Cumberland Development District (UCDD) is the grantee agency for the Upper Cumberland Area Agency on Aging and Disability (UCAAAD also known as the Agency). The Agency provides services to older Tennesseans and to adults with disabilities with a priority to serve those with the greatest social and economic need. The services may include information and assistance, screening and intake for Home and Community Based Services (HCBS), congregate and home-delivered meals, homemaker services, personal care services, recreation, health screening, physical fitness, telephone reassurance, friendly visitation, outreach, transportation, legal assistance, long-term care Ombudsman services, Guardianship services, advocacy, caregiver counseling and training, respite care, supplemental services, counseling and assistance regarding Medicare and other related health insurance, and medication management. The Agency provides these services either directly, or through contracts, with other service providers in the area. TCAD contracts with UCDD to provide aging and disability services utilizing funding from the federal government, including the Older Americans Act (OAA), and from state allocations.

TCAD conducted the FY2011/2012 Policy 22 Monitoring and Review site visit of the Agency on January 11-13, 2012. Policy 22 defines core areas of compliance regarding eligibility and allowable activities that are consistent with most federal and state grant awards.

Summary of the Areas of Review:

- Information & Assistance
Based on Chapter 12 of the TCAD Program & Policy Manual, there are no findings.
- State Health Insurance Assistance Program (SHIP)
Based on the contract and Chapter 14 of the TCAD Program & Policy Manual, there are no findings.
- Nutrition Programs
Based on the TCAD Program & Policy Manual, Chapter 7 (7-2-.15), Nutrition Program Standards, there was one finding regarding monitoring and quality assurance.
- Senior Centers
Based on the contract, Minimum Standards for Senior Centers, and Chapter 6 of the TCAD Program & Policy Manual, there are no findings.
- Options for Community Living
Based on Chapter 16 of the TCAD Program & Policy Manual, there are no findings.
- National Family Caregiver Support Program
Based on the contract and Chapter 11 of the TCAD Program & Policy Manual, there are no findings.
- Legal Assistance
Based on Chapter 8 of the TCAD Program & Policy Manual, Chapter 8, there were no findings.
- Ombudsman
Based on Chapter 9 of the TCAD Program & Policy Manual, there are no findings.
- Public Guardian
Based on the TCAD Policies & Procedures Manual, there are three findings regarding fee schedules, placing clients in unlicensed facilities, and maintenance of appropriate records.
- Title VI Compliance Review
Based on Chapter 5 of the TCAD Program & Policy Manual, and the Civil Rights Act of 1964, there are no findings.
- Area Agency
Based on Chapter 5 (5-6-.02) of the TCAD Policies & Procedures Manual, there were two findings regarding a) monitoring and review, and b) contract compliance related to the SAMS database.

- Fiscal Review

Based upon review of voided checks, voucher register, general ledger, purchase and inventory, guardianship program records, and independent audit report, there was one finding regarding material weaknesses of internal controls over purchasing, contracts, compliance, and allocation of funds.

Chapter I Access to Services

Information & Assistance Monitor Report Narrative

Area Agency: Upper Cumberland
Date of Visit: January 11-13, 2012
TCAD Staff: Darla Bennings, Aging Program Coordinator
AAAD Staff: Linda Maggart, I&A Counselor/Home & Community Based Service Coordinator
Holly Williams, Assistant Director

Tool:

The tool used to measure compliance during this monitoring review is the Information and Assistance Review Interview Questionnaire. The tool is based on the Tennessee Commission on Aging and Disability (TCAD) Program & Policy Manual, Chapter 12, Information and Assistance (I&A) for services contracted through the Upper Cumberland Development District.

Timeframe:

The timeframe for the monitor visit was June, 2011 to the present.

Variations in Procedures:

None

Observations:

The TCAD monitor reviewed all documentation and interviewed Holly Williams, Assistant Director of the area agency, who was cooperative in providing information regarding the I&A program.

Linda Maggart continues to be a full-time employee in dual roles with the area agency as I&A Counselor and Home and Community-Based Services (HCBS) Coordinator. In addition to completing 23 hours of training since the last agency review, Ms. Maggart became AIRS (Alliance of Information and Referral Systems) Certified effective from 9/27/2011 to 9/27/2013.

In addition to Ms. Maggart, the area agency provides I&A phone coverage by utilizing Marty Donnelly, SHIP Volunteer Coordinator/I&A Counselor, and Jessica Pruett, Management Information Technician/I&A Counselor. Both staff persons will be eligible for AIRS certification in September, 2012; however, Ms. Pruett's eligibility is contingent upon the completion of her degreed program in May, 2012.

The area agency continues to employ the same policies and procedures regarding the I&A program. All I&A staff persons continue to coordinate their schedules to answer the phone lines. The initial information is taken from the consumer to determine eligibility and if a screening is

needed. The information is then entered into the SAMS computer database. After this process, the screening is given to the appropriate program staff person for follow-up.

During business hours when I&A staff persons are unable to answer the phones, calls are routed to voicemail. Throughout the day, the voicemail is checked and calls are returned as soon as time permits that day or within two business days.

The after-hours voice mail message complies with policy regarding instructions on what a caller must do in case of an emergency. The caller is instructed to hang up and dial 911. There also remains a message asking the caller to leave a message for a return call about services needed.

Findings:

Based on the TCAD Program & Policy manual Chapter 12, Information and Assistance, there are no findings at this time.

State Health Insurance Assistance Program (SHIP) Monitoring Report Narrative

Area Agency: Upper Cumberland

Date of Visit: January 11-13, 2012

TCAD Staff: Darla Bennings, Aging Program Coordinator and Shannon Jones, SHIP Director

AAAD Staff: Meghian Moore, SHIP Manager & Lanelle Godsey, TennSMP Project Director

Tools:

The State Health Insurance Assistance Program (SHIP) on-site review tool was used during this site visit. The SHIP Review tool is based on the Tennessee Commission on Aging and Disability (TCAD) Program & Policy Manual, Chapter 14, State Health Insurance Assistance (SHIP) Program for services contracted through the Upper Cumberland Development District (UCDD).

Timeframe:

The timeframe for the monitor visit was June 2011 to the present.

Variations in Procedures:

The TCAD monitor used the above mentioned SHIP on-site review tool and reviewed specific items on site pertaining to the program. The SHIP Director, Shannon Jones, also conducted a desk review of SHIP data and other materials that document compliance with the SHIP contract.

Observations:

The TCAD monitor interviewed Meghian Moore and Lanelle Godsey, who were instrumental in providing information for this review.

The TCAD monitor reviewed the SHIP staff job descriptions; materials used in public, media, and education efforts; a sample of material sent to consumers who call requesting information; background check documentation; volunteer training and information packet; and partnership, outreach event and volunteer lists. All materials reviewed either on-site or by desk review were found to be complete.

The area agency performed district-wide SHIP, one-on-one counseling and assistance on Medicare, Medicaid and all other related health insurance to consumers and their adult children, caregivers, healthcare providers and advocates. SHIPtalk data indicates from 7/1/2011 – 01/12/2012, there were 1,977 consumers, who received counseling during this review period. In addition, this number exceeds the agency's goal of 1,179.

The SHIP Coordinator has provided district-wide Part D Low-Income Subsidy counseling and enrollment assistance to Medicare enrollees, per mandated performance measure. The data indicates more than 32% of all client contacts are low-income beneficiaries. In addition, the area agency has a broad network of agencies, health fairs, workshops, and information and media outlets to ensure that individuals in low income zip code areas are being reached.

The TCAD monitor reviewed spreadsheets and event flyers which provided detailed information about public and media education and outreach activities to disseminate information to all communities within the district. The SHIP staff conducted approximately 96 Medicare public and media activities from 7/01/2011 to 01/12/2012.

There is evidence the area agency continues to develop a good, solid SHIP/SMP program. The SHIP staff is commended for obtaining Memorandum of Understandings (MOUs) with their host sites and counseling sites. Additionally, the staff is organized and produces top quality materials for consumers and volunteers.

Suggestions:

None

Findings:

Based on the TCAD Program & Policy Manual Chapter 14, State Health Insurance Assistance Program (SHIP), there are no findings at this time.

Chapter II Community Services/Health Promotion

NUTRITION MONITOR REPORT NARRATIVE

Area Agency: Upper Cumberland

Date of Visit: January 11-13, 2012

TCAD Staff: Darla Bennings, Aging Program Coordinator

AAAD Staff: Judy Roberson, OAA Program Specialist/Quality Assurance

Tools:

The Nutrition Program Provider Compliance Review tool is based on the Tennessee Commission on Aging and Disability (TCAD) Program & Policy Manual, Chapter 7, Nutrition Program Standards and Chapter 5, Provision of Supportive Services for services contracted through the Upper Cumberland Development District. In addition, the following tools are used by the area agency staff to monitor the nutrition program that has been approved by TCAD:

- AAAD Nutrition Site Monitoring
- AAAD Central Kitchen Monitoring

Timeframe:

The timeframe for the monitor visit was June, 2011 to the present.

Variations in Procedures:

None

Observations:

The TCAD monitor reviewed all documentation and interviewed Judy Roberson, OAA Program Specialist, who was cooperative in providing information for the review during the review.

Service Providers – The Upper Cumberland Human Resource Agency (UCHRA) continues to be the Nutrition service provider for 18 nutrition sites, 14 home delivered meal (HDM) sites, and three (3) central kitchens. UCHRA continues to contract with Institutional Wholesale Company to provide the food for all meal operations.

Program Monitoring - Ms. Roberson monitored the UCHRA on September 1, 2011. There were two recommendations; Pam Redmon, Nutrition Project Director, responded with a plan of correction in a timely manner. It is evident by the Nutrition program monitoring schedule that the nutrition sites were monitored quarterly by the staff of UCHRA as required by the service contract.

Registered Dietitian - UCHRA continues to contract with Elizabeth Storie Walker, (licensed dietitian and nutritionist) from July 1, 2010 through June 30, 2012. Her licensure expires on September 30, 2013.

Nutrition Training – The UCHRA quarterly training itinerary reflects topics on menu evaluation, food temperatures, the proper completion of nutrition forms, missed visits, Ensure order procedures, CHOICES, meal waste and etc.

The TCAD monitor randomly selected five (5) of the 18 nutrition sites and one of the three central kitchens for closer review (Pickett County, Fiddlers Manor, Liberty, Granville, Byrdstown, and Jackson County central kitchen). The records reflected that the monitoring was completed in a timely manner.

The TCAD monitor and her supervisor, Kennettra Golden, had a discussion during this monitoring visit with Ms. Roberson, Holly Williams, and Betty Scruggs regarding the five Title III Nutrition establishments that are not being monitored by the area agency. Valerie Hawkins-King, TCAD Registered Dietitian discussed this issue in her meeting with Ms. Roberson on May 23, 2011 by stating, *“at minimum, the AAAD Nutrition Coordinator, should maintain the most current food establishment inspection reports or other inspection reports/surveys related to foodservice of these facilities where eligible consumer’s receive Title III meals.”* Also, Ms. King suggested that *“comprehensive consumer satisfaction surveys be given to all eligible consumers to determine if they are satisfied with their meals, even those who receive meals shipped to their homes (Mom’s Meals)”* (statement taken from Ms. King’s written synopsis of her meeting with Ms. Roberson). The Title III Nutrition contracted providers, who have not been monitored, are shown in the chart below:

| Nutrition Providers | Persons served |
|-----------------------------|-----------------------|
| Crossville Housing | 3 |
| Mom’s Meals | 1 |
| Overton Co. Nursing Home | 7 |
| Standing Stone Nursing Home | 11 |
| Signature Nursing Home | 6 |
| Total persons served | 28 |

The TCAD monitor is in agreement with Ms. King’s above mentioned suggestion that the area agency secure the most current food establishment inspection reports. However, this suggestion is not a requirement in policy or contract and cannot be enforced. Furthermore, in order for the area agency to be in full compliance with TCAD’s Nutrition Program Standards, it is required that the additional five nutrition providers be monitored with the TCAD established nutrition tools by the end of this fiscal year.

Recommendations:

The TCAD monitor recommends that the area agency add a line for a date of response and for the name of staff responding to findings on the UCDD Nutrition Monitor Response Form, so that the monitor will be able to determine if the plan of correction responses are submitted to the area agency within the 30-day specified time frame. In addition, the TCAD monitor suggests that Ms. Roberson develop a schedule of projected dates that the nutrition sites will be monitored.

Review and comply with the TCAD Program & Policy Manual, Chapter 7, Nutrition Program Standards, 7-2-.15 Monitoring and Quality Assurance listed below:

1. The AAAD shall monitor the nutrition service provider(s), each kitchen, and each nutrition site on an annual basis, utilizing the AAAD Nutrition Program Provider Compliance Review form, the AAAD Central Kitchen Monitoring form and AAAD Nutrition Site Monitoring form, as appropriate. The AAAD shall assure that meal temperatures are checked as a routine part of nutrition service delivery.
2. The AAAD shall compile a written, narrative report of the nutrition service provider monitoring visit including findings, plans for compliance and corrective action, as applicable. A copy of the report shall be sent to the provider agency and a copy kept on file at the AAAD.
3. The AAAD shall assure that nutrition service providers monitor each kitchen, congregate meal site and home-delivered meal program at least quarterly using the AAAD Central Kitchen Monitoring form and AAAD Nutrition Site Monitoring form. This monitoring shall include regular temperature checks of hot and cold food items.
4. Comprehensive consumer satisfaction surveys shall be distributed to congregate and home-delivered consumers at least annually. Survey items shall include meal quality, food quantity, service, and the value of nutrition education. Survey data received through these surveys shall be reviewed and summarized in a report with suggested improvements.

Finding:

All nutrition service providers were not monitored on an annual basis.

SENIOR CENTER MONITOR REPORT NARRATIVE

Area Agency: Upper Cumberland

Date of Visit: January 11-13, 2012

TCAD Staff: Darla Bennings, Aging Program Coordinator

AAAD Staff: Judy Roberson, OAA Program Specialist/ Quality Assurance

Tools:

The “Quality Assurance Compliance Review of Senior Centers” monitoring tool was used by the staff of Upper Cumberland Development District (UCDD) to review all twenty (20) senior centers in 14 county areas of the Upper Cumberland Region. The tool is based on the Tennessee Commission on Aging and Disability (TCAD) Policy and Procedures Manual for services contracted through the Area Agency on Aging & Disability (AAAD), Chapter 6, Senior Centers.

Timeframe:

The timeframe for this monitor visit was June, 2011 to the present.

Variations in Procedures:

None

Observations:

The TCAD monitor reviewed all documentation and interviewed Judy Roberson, who was helpful in providing information for this review. The documentation provided included a complete listing of senior centers, a schedule of monitoring dates for the centers, the completed monitoring tools, correspondence to the senior centers, and the senior center’s responses to the monitoring visits, if any were warranted. In addition, Ms. Roberson provided monitoring reports for five (5) of the 20 senior centers that were randomly chosen by the TCAD monitor for closer review.

Classification of Senior Centers & Operations – There are five level III senior centers, six level II senior centers, four level I senior centers, and five satellite centers. Each center is given a base amount of state funding each year. The center is required to match that amount annually. Many centers raise five times the amount of the allocation. Level I senior centers are operational three to five days per week, varying from 20 to 36 hours; Level II and III senior centers are operational five days per week, 35 to 40 hours; and Satellite senior centers may operate less than 20 hours per week in some cases.

Activities - All senior centers are required to provide opportunities for socialization, recreation, education, health/fitness, volunteer opportunities, and information and assistance. However, the larger centers may schedule after hours events and weekend activities. Nutrition education is offered at least once a month at satellite and Level I centers. Level II centers offer nutrition

education two times per month, and Level III centers are expected to provide educational programs once per week.

Five senior center records were chosen for closer review (Baxter, Clay County, Putnam County, Smith County, and Van Buren County). Of the five senior centers reviewed, all sites had multiple findings and two out of five centers had prior unresolved findings; however, Plans of Correction had been submitted by all senior centers.

Suggestion:

While the Service Provider Assessment Report has a place for the senior center's projection completion date, the TCAD monitor suggests that the area agency add a line for a submission date for the senior center's response, so that the monitor will be able to determine if the plan of corrections are submitted to the area agency within the 30-day specified time frame.

Recommendation:

The AAAD should follow-up with all senior centers that have multiple findings and provide technical assistance within three months regarding administrative findings and safety findings.

Findings:

Based on TCAD Policies and Procedures Manual Chapter 6, Senior Centers, there are no findings at this time.

Chapter III Home and Community Based Services

Options for Community Living Program Review and Report Narrative

Area Agency: Upper Cumberland
Date of Visit: January 11-13, 2012
TCAD Staff: Kennettra Golden, Monitoring and Review Supervisor
AAAD Staff: Holly Williams, Assistant Agency Director

Tools:

The tools used for the review includes the “TCAD Annual Assessment and Documentation Review of the Area Agency OPTIONS Program”, Chapter 16 of TCAD Program and Policy Manual, and the Area Agency’s Annual Plan.

Timeframe:

The period under review was from June 2011 to the present.

Variations in Procedures:

The monitor’s method of selecting the sample of records for review was based on a listings provided by the area agency instead of the sample drawn for the SAMS data base prior to the on-site visit. (See the finding under Area Agency section regarding the maintenance of the SAMS database.)

Work Papers

The work papers include the forms with written notes indicating whether the standard was met. The monitor verified each item initialed.

Observations:

There are five service coordinators responsible for the Home and Community-Based Services program. Two staff members are employed on a full-time basis and three others are part-time workers. No changes were reported in the Options staff since the last monitoring visit in April 2011. A review was made of the service coordinators qualifications and training logs. Ten (10) client records of individuals currently active in the Options program were reviewed based on the roster made available by the area agency. The sample selection included files from all five (5) service coordinators and covered an assortment of 10 of the 14 counties served by the area agency.

All the files examined contained documentation of the screenings and in-home assessments. Included in each selected file was: the authorizations, signed services plans, and revisions/updates to the service plans as needed. The initial screening information generated from the I & A contacts was complete in all ten (10) files. The in-home assessment forms are completed by the service coordinators with the consumer in his or her residence. All the files reviewed were found to have completed all the criteria for eligibility. Five records were found to have sections of the assessment form that were incomplete. Examples of the files without data

include: section 1 (Intake), section 5 (Mental Health/Behavior/Cognition), and section 1.B (Legal Representative). There were several unsuitable habits noticed in the written client records which should be discontinued. There was one service coordinator who used correction fluid to modify changes (i.e., errors) on paper documents in a record. This is not a best practice. The habit of leaving items blank or drawing lines through sections of question on the Options in-home assessment forms is not the ideal manner to respond to items. Placing “NA” for not applicable is the preferred way to answer questions so there is no question whether an item was included in the assessment or screening.

Suggestion:

Complete all section of the assessment form in such a manner that there is no question that the item was checked as part of the in-home evaluation to determine program eligibility. The absence of such data on the assessment and re-assessment forms can lead to challenges as to client eligibility and waiting list prioritization.

Do not use the liquid or tape correction material to correct inaccurate information in the files. The proper manner to make corrections requires the error be struck out with an ink pen, with the initials of the person making the changes placed beside the correction being made.

Recommendation:

In regard to determining eligibility for the Options program, implement the prescribed telephone screening process to prioritize those on the waiting list (as described in the Options Chapter of the Program and Policy manual).

When an opening in the Options Program occurs, the highest priority client is chosen from the waiting list and an in-home assessment is fully completed in order to determine eligibility and to develop the plan of care.

Findings:

Based on the TCAD Program and Policy manual Chapter 16 on Options for Community Living, there are no findings at this time.

FAMILY CAREGIVER MONITOR REPORT NARRATIVE

Area Agency: Upper Cumberland

Date of Visit: January 11-13, 2012

TCAD Staff: Darla Bennings, Aging Program Coordinator

AAAD Staff: Holly Williams, Assistant Director

Tools:

The Annual Assessment and Documentation Review tool is based on the Tennessee Commission on Aging and Disability (TCAD) Program & Policy Manual, Chapter 11, National Family Caregiver Support Program (NFCSP) for services contracted through the Upper Cumberland Development District. In addition, the Family Caregiver Support Provider (FCSP) Service Recipient Record Review was used to review a sample of caregiver/care recipient charts.

Timeframe:

The timeframe for the monitoring review was June, 2011 to the present.

Variations in Procedures:

None

Observations:

The TCAD monitor interviewed Holly Williams, who provided information for the NFCSP review. At this time, the area agency has a total of 41 enrollees in the program.

The TCAD monitor randomly chose 10 caregiver files for review during this monitoring visit.

The caregiver charts showed evidence that the agency continues to use the Social Assistance Management System (SAMS) assessment process, which includes documentation of Activities of Daily Living (ADL) and Instrumental Activities of Daily Living (IADL) on the care recipient as well as the caregiver, when necessary. The agency prioritizes applicants at intake according to frail, minority, and low income elderly persons, which is determined by the applicants ADL and IADL scores on the assessment.

The caregiver files contained service plans that reflected the type of services received; that reassessments occurred annually; and that quarterly follow-up calls were made and recorded in the progress notes. In addition, there was verification in each chart of the caregiver's relationship status as being an adult family member (18+) child, spouse or sibling.

There is a waiting list for FCSP. Assessments are completed for FCSP when an opening becomes available. Priority is given to frail, minority, and low income elderly persons.

The AAAD utilizes the Social Assistance Management System (SAMS) computer data-based program, for the agency's Information Technology (IT) function, which captures client tracking, service delivery, and the number of persons served in various eligibility categories. In addition, the area agency makes use of trained volunteers in expanding the provision of the five service components by use of the Senior Medicare Patrol (SMP) program, when necessary.

The agency has brochures and media campaigns to inform the community about caregiver services available through the NFCSP. Referral sources continue to originate with Health Fairs, Elder Care conferences, Home Health Organizations, the Senior Expo, medical offices, relatives, and friends.

Findings:

Based on the TCAD Program and Policy Manual Chapter 11, there are no findings at this time.

Chapter IV Elder Rights

Legal Assistance Monitor Report Narrative

Area Agency: Upper Cumberland
Date of Visit: January 11-13, 2012
TCAD Staff: Kennettra Golden, Program Monitoring Supervisor
AAAD Staff: Judy Roberson, Quality Assurance Monitor

Tools:

The “Tennessee Commission on Aging and Disability Legal Services Assessment and Documentation Review”, is the primary tool used by the TCAD monitor. The agency monitor used the “Area Agency on Aging Uniform Monitoring Instrument – Legal Assistance Program” to examine evaluate program compliance.

Timeframe:

The timeframe for the monitor visit was June 2011 to the present.

Work Papers:

The work papers include the above-mentioned tools with written notes indicating whether the standards were met. This monitor verified and initialed each item.

Monitor’s Observations:

The AAAD’s monitoring visit to Aging Services of the Upper Cumberland, Inc. occurred on September 21, 2011. The time period under review was June 30, 2010-September 21, 2011. The “AAAD Uniform Monitoring Instrument for the Legal Aid Assistance Program”, was the tool used for the program monitoring. The monitoring instrument examines thirteen (13) Service Standards for Providers of Legal Services and covers many of the basic organizational guidelines. The on-site monitor from the area agency, Judy Roberson, confirmed legal services to the targeted groups were provided as detailed in the contract, TCAD policies, and the Older Americans Act (OAA). The identified population consists of the elderly, low income, minority, rural, plus handicap and/or frail consumers. Specific guidelines exist for offering legal services to the elderly who reside in long-term care settings, are home bound, or in rural areas.

This Legal Assistance program is available to serve people from the 14 counties of the Upper Cumberland/Plateau area. The program has work space within the Development District’s office building, and operates during regular business hours, Monday through Friday. The service provider can offer accommodations to consumers with disabilities or offer interpreter services to persons with Limited English Proficiency.

Based upon Chapter 8 of the TCAD Program and Policy Manual on Legal Assistance, the AAAD monitor cited the following two findings for which the provider was not in full compliance with program requirements:

1. Targeting goals as stipulated in the contract for serving low-income and low-income minorities was not met. *TCAD 8-4-.01 (16)*
2. The provider did not have a statement regarding voluntary contribution to the cost of the services on each retainer agreement. *TCAD 8-4-.01(28)*

The agency monitor's letter with findings to the provider of Legal Assistance was dated January 9, 2012. This correspondence was not sent out within 30 days of the monitoring visit, as shown by the dates on the report and work papers of September 21, 2011. The time allowed for a timely plan of correction response has not ended. There was no indication the provider had responded or submitted a plan of correction at the time of this agency review.

Suggestions:

The agency monitor should develop a process to assist in tracking activities related to program monitoring and assure tasks are being achieved in a timely manner. Letters and reports are to be sent to the provider agency within 30 days of the site visit.

Finding:

No findings at this time.

Ombudsman Review and Report Narrative

Area Agency: Upper Cumberland
Date of Visit: January 11-13, 2012
TCAD Staff: Kennettra Golden, Program Monitoring Supervisor;
Jerry Blasingame, State Long-term Care Ombudsman
AAAD Staff: Judy Roberson

Tools

The TCAD “Ombudsman Assessment and Documentation Review Form” for the Ombudsman Program, Chapter 9 TCAD Program and Policy Manual on the State Long Term Care Ombudsman program and the Area Agency’s Annual Plan were used for monitoring the program.

Time Frame:

The timeframe for this monitor visit is June of 2011 to the present.

Variations in Procedures:

A desk review of the AAAD work papers and final report are the basis of this account. Upper Cumberland contracts with the Elder Law Practice for Ombudsman services, and monitors the provider for compliance. TCAD reviews the area agency’s contract monitoring. TCAD reviews the area agency’s monitoring report for this service.

Work Papers:

The work papers include the forms with written notes indicating whether the standard was met. The monitor verified and initialed each item.

Observations:

The review of the Upper Cumberland agency monitor’s work papers and report from the time period of July 1, 2010 – June 7, 2011 to access the status of the Ombudsman program was examined by the TCAD personnel. There was also data available regarding the number of contact hours and types of persons being served. The provider has an established protocol to maintain consumer confidentiality while investigating complaints.

The District Ombudsman has established both formal and informal arrangements with the various agencies such as, Legal Assistance, state government departments such as the Departments of Human Services (Adult Protective Services), Social Security, Health, Veteran’s Affairs, as well as other social service organizations.

The district ombudsman did attend all the required state training events, according to the State Long-term Care Ombudsman.

It was on November 10, 2011 that the agency monitor examination of the program identified the following area that does not fully comply with the General Standards for Providers:

- An explanation of the grievance procedure was not being provided to each complainant by the provider agency. There was also no summary of the customer satisfaction surveys compiled on the Ombudsman program. *TCAD 9-4.4 (k) (1)*.

The agency monitor's sent a letter of the program finding dated January 9, 2012, to the provider agency. This letter was mailed after the allotted 30 working days following the date of the site visit. After taking into consideration the number of holidays that occurred during this period, the monitor's correspondence was too late to comply with the policy.

The district ombudsman maintains private information about the nature of complaints, details related to the investigation activities as well as specific collecting demographic information on the consumers using the software database system, OmbudsManager. This module is part of the Harmony for Aging and Adult Services developed for use with the Medicaid waiver programs and provide reporting compliance for the Older Americans Act. Consequently, the State Long-term Care Ombudsman performed a desk review on December 2011 of the data entered into the OmbudsManager by the district ombudsman. An examination of select cases revealed that five of the cases did not contain an intake summary or journal entry.

It is also noted the Quarterly narratives were not received in TCAD office for the calendar year 2011 with the exception of the December 20, 2011 report.

Suggestions:

1. The agency monitor should develop a process to assist in tracking activities related to program monitoring and assure tasks are being achieved in a timely manner. Letters and reports are to be sent to the provider agency within 30 days of the site visit.
2. The State Long-term Care Ombudsman should send notification to the AAAD and the District Long-term Care Ombudsman whenever data is incomplete in Ombudsmanager.

Finding:

None.

*Since this is the first year for the State Long-Term Care Ombudsman to examine the data in the Ombudsmanager for the purpose of reporting in this annual review process, no findings will be issued at this time. A follow-up examination will be conducted by the State Long-Term Care Ombudsman within six months. A finding will be issued if no improvement is noted.

Public Guardian Program Review and Report Narrative

Area Agency: Upper Cumberland

Date of Visit: January 12, 2012

TCAD Staff: Janet Lamb, Elder Rights Supervisor, Jeanne Caudill, State Public Guardian

AAAD Staff: Lisa Trammel, District Public Conservator

Tools:

This monitoring visit of the Upper Cumberland District's Public Guardianship Program is based on the TCAD Program Policies and Procedures Manual Chapter 10 on the Public Guardianship for the Elderly Program, and the Area Agency's Annual Plan.

Time Frame:

The period for this review was June 2010 to the present.

Monitor:

Complaints regarding the services to a consumer, and elevated numbers of Durable Power of Attorney (DPOA) for the Upper Cumberland district, prompted Janet Lamb, the Elder Rights Supervisor and Jeanne Caudill, State Public Guardian from TCAD to perform the program monitoring at this time.

Variations in Procedures:

The monitoring visit involved a review of all the district's guardianship client records that are classified as an institutionalized Power of Attorney (DPOA). The change of reviewers scrutinizing the information was made due to a specific complaint. The State Public Guardian and Elder Rights Supervisor were charged to complete an in-depth evaluation.

Observations:

A total of eleven district cases were classified as being for Durable Power of Attorney (DPOA). Upon review, at least five of the eleven cases were found not to comply with TCAD program requirements.

In reviewing cases handled under the District Public Guardian Program, the following amounts were noted as having been received by the agency for guardianship services:

- Client A was charged \$5,000 for two years of service (406 hours noted).
- Client B was charged \$2,500 for two years of service (336 hours noted).
- Client C was charged \$1,330 for services with no unit price entered.
- Client D was charged \$1,190 for services with no unit price entered.

TCAD Policy 10-3(k) states that "there is no charge for services provided by the district program for conservatorship or other services provided by the conservatorship program if the client is indigent or otherwise meets the cost exemption guidelines set out in the sliding fee schedule periodically established by the state agency..."

The policy goes on to say that “The District Conservator may be compensated as set out in these policies and procedures and in accordance with the fee schedule established by the state agency.” (Chapter 10(5)(e))

TCAD has established a suggested fee schedule (contained in Attachment I) for use by the public guardian. In the reviewed cases, there is no unit price indicated (Client C and Client D) nor does there seem to be consistency in the amounts charged to individuals who receive DPOA services (Client A and Client B). The fee schedule was not adhered to with Clients A and B. The fee schedule was used in Clients C and D, however, the unit price was not entered in SAMS to indicate which sliding scale fee was being charged for services.

Section A.5.i.3.k) of the contract between TCAD and the Upper Cumberland Development District also indicates that accurate records pertaining to each client in the public guardianship program must be maintained.

The records do not indicate what services were provided by the Public Guardian for the hours billed for any of the 11 cases reviewed.

It was also noted that the Public Guardian referred Clients A and Client E, to the Living the Dream retirement home, a facility that is an unlicensed boarding home.

Under TCAD Policy and Program Manual 10-3(j), each district conservatorship program shall ensure that clients needing to be placed in a long term or residential care facilities are licensed or approved by the appropriate agencies.

Findings:

1. The District Public Guardian must comply with TCAD Policy regarding amounts to be charged for services rendered under the public guardianship program. The fee schedule must be implemented and followed. Deviations to the fee schedule are allowed if agreed to by the client and based on documented timekeeping records.
2. The District Public Guardian may not place clients in unlicensed facilities.
3. The District Public Guardian must maintain appropriate records for services provided and for hours billed.

Chapter V Program Management

Title VI Compliance Review

Area Agency: Upper Cumberland
Date of Visit: January 11-13, 2012
TCAD Staff: Kennetra Golden, Title VI Coordinator, TCAD
AAAD Staff: Patty Ray, Agency Director

Tools:

The "Title VI AAAD Review" form and the Title VI Worksheet are used for reviewing for compliance by the monitor. Question #16 of the "TCAD Annual Assessment and Documentation Review for Area Agency," based on TCAD Program and Policy Chapter 5 which addresses Title VI. The Targeting Plan of the AAAD Area Agency Plan 2010-2011.

Time Frame:

The period for this review was June 2011 to the present.

Variations in Procedures:

The monitoring review occurred earlier than scheduled. Much of the reporting information for the tools has not been completed at this point in the year, but will be obtained later prior to the end of the review period.

Observation:

It has been only six months since the previous site visit in June of 2011. The last staff in-service training regarding Title VI took place at Upper Cumberland in May of 2011. According to Patty Ray, the training for the current fiscal year will occur approximately in May of 2012. All staff will be expected to participate in the training session at that time. There are no reports of any complaints or grievances regarding civil rights violations at this time. It was noted that the agency policies and procedures comply with the rules of Civil Rights as found in Title VI. The Development District also reflects these requirements for Title VI compliance in its operations. Staff makes use of sign-in sheets of attendance to verify the presence of agency employees for the training. Training logs are also kept on each employee to verify training.

Appropriate signage was posted in the public areas of the agency referring to Title VI, which included all the information needed on how to file a complaint.

Findings:

Based on TCAD Program and Policy Manual Chapter 5 Area Agency (Civil Rights 5-10.01), there are no findings at this time.

AREA AGENCY MONITOR REPORT NARRATIVE

Area Agency: Upper Cumberland
Date of Visit: January 11-13, 2012
TCAD Staff: Kennettra Golden, Program Monitoring Supervisor
AAAD Staff: Patty Ray, Director

Tools:

The TCAD Program & Policy manual, Chapter 5 Area Agency on Aging & Disability Operation and Provision of Supportive Services, the contract and Area Plan are the basis of the Area Agency monitoring tool.

Timeframe:

The timeframe for the monitor visit was June 2011 to the present.

Variations in Procedures:

The monitor focused on the Older Americans Act (OAA) programs since most of the Title VI information is included in the area plan. The interview with the agency director occurred intermittently throughout the time of the monitoring, but did not conclude with a final interview. The director was attending another meeting and was not available for a detailed exit interview prior to the TCAD monitors departure.

The monitor met with the agency director, Patty Ray to discuss the status of the agencies' general operations. Information of the current review was requested on-site rather than using the pre-visit information request. The discussion also included aspect of the December 17, 2011 trip and results. The following observations are based upon discussions with staff and check of documents.

Observations:

- Advisory Council: A January 11, 2012 roster of the UCAAAD advisory council members lists seventeen (17) members. The advisory council is composed of twelve (12) women and five (5) men. There is one minority member. The over sixty (60+) and disabled representation on the council could not be identified from the information supplied. The advisory committee represents a variety of stakeholders from the community.
- Organization Chart: A diagram highlighting the structure of the Area Agency including the names of the staff in each position was requested by the monitor. During an interview it was discerned employees had multiple tasks and work responsibilities. The division of duties, while acceptable, makes it challenging to identify the person with the responsibility for overseeing work activities. For example, when there is a need for TCAD to contact the agency management information system (MIS) manager with important updates or other exchanges. Staff members have assignments based on specific tasks to comprise the one FTE MIS position as required by TCAD policy. Currently, the agency has three staff members

performing in some capacity to fulfill this role. The primary contact identified for MIS is also the financial specialist for UCAAAD.

- Program and Policy Manual: The agency uses the TCAD Program and Policy Manual as the basis for staff and service providers to meet program requirements. The agency operations guideline, while complete, has areas that would benefit from changes to improve the agency's effectiveness.
- Affirmative Action Plan: The policy of the UCAAAD is to afford equal employment opportunity to all its employees and applicant without reference to race, creed, sex, age, color, or national origin.
- Civil Rights Compliance Plan: UCAAAD abides by Title VI of the Civil Rights Act of 1964 by making an effort to ensure fair and equal treatment of all consumers of services and UCAAAD employees. There is appropriate signage posted in a common area of the office space. Title VI training has taken place for Agency staff this year.
- Americans with Disabilities Policies: The Americans with Disabilities Act (ADA) of 1990 is a Civil Rights law requiring that all facilities open to the public is accessible to people with disabilities. Federal and State buildings, places of public accommodation, and commercial facilities, must follow the ADA standards for accessible design to comply with the law. The current location for the Agency complies with ADA standards for accessible design.
- Adult Protective Services: The Agency policy requires staff to report any suspected case of adult abuse, neglect, or exploitation as stipulated in the Tennessee Adult Protection Act.
- Emergency Preparedness/Disaster Plan: There was an implementation plan for the Agency for use in the event of an emergency or disaster, which may affect the elderly and disabled adults within the region.
- Confidentiality and Health Insurance Portability and Accountability Act (HIPAA) Policies: The Agency adheres to the policies and procedures for maintaining the privacy and protection of personal information on consumers and participants in various programs to comply with State and Federal laws as stipulated by TCAD.
- Monitoring and Review: Two agency employees are responsible for monitoring service providers during the year to assure the contract companies adhere to the service standards as outlined in the contracts, TCAD program policy, and comply with all federal/state statutes and laws. The monitoring activities are divided between the two agency monitors. The Home and Community-Based Services program and Nutrition are conducted by one person. The second staff person oversees the CHOICES service providers and conducts the internal review of entries into the SAMS database by the Service Coordinators for both the TCAD supported Home and Community-Based Services and the TennCare CHOICES program.

After review, there continue to be indications that the agency's internal controls are ineffective. This concern has been raised with the agency director and the supervisory staff during the last several exit interviews, the most recent being December 16, 2011. After that last review, a plan was developed by the agency to remedy the concern.

That plan was reviewed as part of the present monitoring visit. The monitor discussed the revised plan with an assistant director of the agency. Questions posed about the details of the plan, however, did not yield clear answers as to how the internal monitoring systems were improving. The assistant director could not describe the method or measures used in their internal monitoring system.

The observations, recommendations, and findings in the current monitoring report reinforce the need to improve the internal review process to further strengthen the overall activities of the agency.

Suggestions:

The TCAD Monitoring and Review staff will provide technical assistance upon request to assist the agency reviews in revising their process for program monitoring.

Client records in the SAMS database should be up-dated to reflect active participants in the programs such as Options and Family Caregivers Support.

Findings:

1. The present monitoring and review process is ineffective and needs strengthening to adhere to the TCAD policy for program requirements for Area Agencies on Aging and Disability Monitoring and Program Review 5-6-.02 for and Program Review.
2. The SAMS database should be maintained in accordance with the contract.

**TCAD Fiscal Review
Fiscal Year 2010-2011**

| | |
|-----------------------|--|
| Area Agency: | Upper Cumberland |
| Date of Visit: | January, 11-13 2012 |
| TCAD Staff: | Mark Hanna, Auditor III; Cynthia Minnick, Accounting Manager |
| AAAD Staff: | Lewis Betterton, Financial Specialist |

Timeframe:

Fiscal Year 2010-2011

Documentation Reviewed:

- A. Voided Check/Voucher Register.
- B. General Ledger
- C. Purchases and inventory
- D. Guardianship Program.
- E. Independent Audit report

On site Observations:

Voided Check/Voucher Register

During the monitoring review, the auditor found a check in the amount of \$300,000 made payable to "Living the Dream." "Living the Dream" is a facility established under the direction of the Upper Cumberland Development District to provide low income residential services to older Tennesseans. According to Mr. Betterton, those monies came from an unrestricted funds. No supporting documentation could be found to justify the payment nor were minutes provided at the time of the visit that authorized the payment.

B. Check Register

The reviewed check register contained no payroll information but did contain approximately \$33,000 in payments to Wendy Askins, the Development District's Executive Director. According to Mr. Betterton, those payments were for travel. Monitors also found payments to Living the Dream (\$990) and to an entity known as LA Management (\$4200). LA Management was an entity whose President was Larry Webb (the Development District's Deputy Director). A check was also found made payable to Cynthia Hembree (the Development District's Executive Director's sister) in the amount of \$389.42 for respite services.

C. General Ledger:

The monitor reviewed selected transactions from the General Ledger concerning UCAAAD for the year ending June 30, 2011 along with supporting related documents. Based on that limited sample, no discrepancies were found. It was noted, however, that at least eighteen (18) separate entities exist that have some connection to the Development District itself.

D. Purchases and Inventory

In reviewing bid processes for vehicles, the monitor discovered that the UCDD placed a bid for one vehicle with certain specific requirements; they only received one bid, that being a bid from the Executive Director of the UCDD Area Agency on Aging and Disability. The UCDD accepted that bid, bought the vehicle and then provided it to the Executive Director to use for agency purposes. Other staff also had cars provided to them.

E. W-2's

Several UCDD employees were found to have been issued both W-2's and 1099 forms. It was unclear from the review and the documentation how said employees could receive both. It was also noted that Cynthia Hembree (the Development District's Executive Director's sister) was reported as earning wages by both Living the Dream and by the Development District during the same time period.

F. Financial Review of the Guardianship Program

A sample of five guardianship client records were reviewed as part of the overall financial analysis. The UCDD operates a private trust fund accounts program which allows for clients, who are unable to manage their own assets, to have their funds placed in a trust to be managed by the District in accordance with Court Orders and Trust Agreements. The auditor found that each of the five accounts had the proper court orders and supporting documents; it was noted and relayed to the UCDD that one account had been charged by the UCDD twice for the same amount (\$960).

G. The Independent Audit Report

The UCDD independent auditor's report was reviewed. In issuing an unqualified opinion, the report indicated that the independent auditor could not identify any reportable conditions that could be considered material weaknesses. The independent auditor stated that "We noted no matters involving internal control over compliance and its operations that we consider to be material weakness."

Finding:

1. Our review indicates a material weakness of internal controls over purchasing, contracts, compliance, and allocation of funds. Supporting documentation is, in many cases, insufficient. Questions remain regarding payments to and equipment provided to employees. A contract between the Development District and employees of the District raises significant legal and conflict of interest concerns as does a bid process that allows the District to purchase a car from an employee for the subsequent use by that same employee.

Our review indicates a material weakness of internal controls over purchasing, contracts, compliance, and allocation of funds. Supporting documentation is, in many cases, insufficient. Questions remain regarding payments to and equipment provided to employees. A contract between the Development District and employees of the District raises significant legal and conflict of interest concerns as does a bid process that allows the District to purchase a car from an employee for the subsequent use by that same employee.

The monitors from the Tennessee Commission on Aging and Disability are to selectively review records and documentation of a grantee agency for compliance on eligibility and program adherence. Our review is limited by the scope of the review, by time, and by staff resources. However, in the limited review conducted, we saw enough concerns with the internal operations, processes, and actions of the Development District to notify and request the appropriate authorities within Tennessee State Government to perform a much more in depth and thorough review of the District.

While the more thorough review is pending, the Tennessee Commission on Aging and Disability will continue to carefully and closely monitor all activities of the Upper Cumberland Development District as it relates to any TCAD funds and/or programs.